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Tuesday
September 12, 1995

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WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: October 17 at 9:00 am and 1:30 pm
WHERE: Office of the Federal Register Conference Room, 800 North Capitol Street NW., Washington, DC (3 blocks north of Union Station Metro)
RESERVATIONS: 202–523–4538

ATLANTA, GA

WHEN: September 20 at 9:00 am
WHERE: Centers for Disease Control and Prevention
1600 Clifton Rd., NE.
Auditorium A
Atlanta, GA
RESERVATIONS: 404–639–3528
(Atlanta area)
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Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board
Free **Electronic Bulletin Board** service for Public Law numbers, **Federal Register** finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

Federal Register
Vol. 60, No. 176
Tuesday, September 12, 1995

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–25–AD; Amendment 39–9365; AD 95–19–04]

Airworthiness Directives; Learjet Model 35, 35A, 36, 36A, 55, 55B, and 55C Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Learjet Model 35, 35A, 36, 36A, 55, 55B, and 55C airplanes, that requires installation of a placard on the instrument panel in the cockpit to advise the flightcrew that the Omega navigation system may be inoperative at certain engine speeds. This amendment is prompted by reports of loss of certain navigation signals during extended over water operation. The actions specified by this AD are intended to prevent excessive deviation from the intended flight path due to loss of navigation signals, which could result in a potentially low-fuel condition or a traffic conflict.

DATES: Effective October 12, 1995.

ADDRESSES: The service information referenced in this AD may be obtained from Gates Learjet, Mid-Continent Airport, P. O. Box 7707, Wichita, Kansas 67277. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Wichita Aircraft Certification Office, Small Airplane Directorate, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: C. Dale Bleakney, Aerospace Engineer, ACE–130W, Systems and Equipment Branch, FAA, Wichita Aircraft Certification Office, Small Airplane Directorate, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4135; fax (316) 946–4407.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Learjet Model 35, 35A, 36, 36A, 55, 55B, and 55C airplanes was published in the **Federal Register** on May 16, 1995 (60 FR 26003). That action proposed to require installation of a placard on the instrument panel in the cockpit to advise the flightcrew that the Omega navigation system may be inoperative when engine speed reaches 92.5% N_2.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

There are approximately 710 Learjet Model 35, 35A, 36, 36A, 55, 55B, and 55C airplanes of the affected design in the worldwide fleet. The FAA estimates that 177 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. The cost of required parts (local manufacture of a placard) is negligible. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $10,620, or $60 per airplane.

The total cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Should an operator elect to accomplish the optional terminating action that is provided by this AD action, it will take approximately 14 work hours to accomplish it, at an average labor rate of $60 per work hour. The cost of required parts will be approximately $3,050 per airplane. Based on these figures, the total cost impact of the optional terminating action is $3,890 per airplane.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

95–19–04 Learjet: Amendment 39–9365. Docket 95–NM–25–AD.

Applicability: Model 5, 35A, 36, 36A, 55, 55B, and 55C airplanes; equipped with

Global Wulfsburg GNS 500, GNS–1000, and GNS-X Flight Management Systems, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (d) of this AD to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent excessive deviation from the intended flight path which, if the aircraft is on an extended overwater operation, may lead to a potential low-fuel condition or a traffic conflict operation, accomplish the following:

(a) Within 60 days after the effective date of this AD, install a placard in a prominent location on the instrument panel that states: ''VLF/OMEGA MAY BE INOPERATIVE AT 92.5% N_2''

(b) For Model 35 airplanes, serial numbers 35–001 through 35–603 inclusive; and Model 36, serial numbers 36–001 through 36–053 inclusive: Installation of a GNS 500/1000 generator band reject filter in accordance with Gates Learjet Airplane Accessory Kit Model AAK 85–1, dated January 14, 1986, as revised by Airplane Accessory Kit Change Notice AAK–85–1, Change 1 (undated), constitutes terminating action for the placard requirement of paragraph (a) of this AD. Following installation of the filter, the placard required by paragraph (a) of this AD may be removed.

(c) For Model 55 airplanes, serial numbers 55–003 through 55–124 inclusive: Installation of a GNS 500/1000 generator band reject filter in accordance with Gates Learjet Airplane Accessory Kit Model 55 AAK 55–85–2, dated January 14, 1986, as revised by Airplane Accessory Kit Change Notice AAK No. AAK55–85–2, Change 1 (undated), constitutes terminating action for the placard requirement of paragraph (a) of this AD. Following installation of the filter, the placard required by paragraph (a) of this AD may be removed.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Manager, Wichita Aircraft Certification Office (ACO), FAA, Small Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita ACO.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) This amendment becomes effective on October 12, 1995.

Issued in Renton, Washington, on September 5, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–22457 Filed 9–11–95; 8:45 am]

BILLING CODE 4910–13–U

Federal Aviation Administration

14 CFR Part 71

[Docket No. 28306; Amendment No. 71–26]

Airspace Designation; Incorporation By Reference

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Federal Aviation Regulations relating to airspace designations to reflect the approval by the Director of the Federal Register of the incorporation by reference of FAA Order 7400.9C, Airspace Designations and Reporting Points. This action also explains the procedures the FAA will use to amend the listings of Class A, Class B, Class C, Class D, and Class E airspace areas and reporting points incorporated by reference.

EFFECTIVE DATE: These regulations are effective September 16, 1995, through September 15, 1996. The incorporation by reference of FAA Order 7400.9C is approved by the Director of the Federal Register as of September 16, 1995, through September 15, 1996.

FOR FURTHER INFORMATION CONTACT: Brenda Brown, Airspace and Obstruction Evaluation Branch (ATP–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9235.

SUPPLEMENTARY INFORMATION:

History

FAA Order 7400.9B, Airspace Designations and Reporting Points, dated July 18, 1994, and effective September 16, 1994, listed Class A, Class B, Class C, Class D, and Class E airspace areas and reporting points. Due to the length of these descriptions, the FAA requested approval from the Office of the Federal Register to incorporate the material by reference in the Federal Aviation Regulations (FAR) section 71.1 (14 CFR section 71.1). The Director of the Federal Register approved the incorporation by reference of FAA Order 7400.9B in section 71.1, effective September 16, 1994, through September 15, 1995. During the incorporation by reference period, the FAA processed all proposed changes of the airspace listings in FAA Order 7400.9B in full text as proposed rule documents in the **Federal Register**. Likewise, all amendments of these listings were published in full text as final rules in the **Federal Register**. This rule reflects the periodic integration of these final rule amendments into a revised edition of Airspace Designations and Reporting Points, Order 7400.9C. The Director of the Federal Register has approved the incorporation by reference of FAA Order 7400.9C in section 71.1, as of September 16, 1995, through September 15, 1996. This rule also explains the procedures the FAA will use to amend the airspace designations incorporated by reference in part 71. Sections 71.5, 71.31, 71.33, 71.41, 71.51, 71.61, 71.71, 71.79, and 71.901 are also updated to reflect the incorporation by reference of FAA Order 7400.9C.

The Rule

This action amends part 71 of the Federal Aviation Regulations to reflect the approval by the Director of the Federal Register of the incorporation by reference of FAA Order 7400.9C effective September 16, 1995, through September 15, 1996. During the incorporation by reference period, the FAA will continue to process all proposed changes of the airspace listings in FAA Order 7400.9C in full text as proposed rule documents in the **Federal Register**. Likewise, all amendments of these listings will be published in full text as final rules in the **Federal Register**. The FAA will periodically integrate all final rule amendments into a revised edition of the Order, and submit the revised edition to the Director of the Federal Register for approval for incorporation by reference in section 71.1.

The FAA has determined that this action: (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant

preparation of a regulatory evaluation as the anticipated impact is so minimal. This action neither places any new restrictions or requirements on the public, nor changes the dimensions or operating requirements of the airspace listings incorporated by reference in part 71. Consequently, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

2. Section 71.1 is revised to read as follows:

§ 71.1 Applicability.

The complete listing for all Class A, Class B, Class C, Class D, and Class E airspace areas and for all reporting points can be found in FAA Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The approval to incorporate by reference FAA Order 7400.9C is effective September 16, 1995, through September 15, 1996. During the incorporation by reference period, proposed changes to the listings of Class A, Class B, Class C, Class D, and Class E airspace areas and to reporting points will be published in full text as proposed rule documents in the **Federal Register**. Amendments to the listings of Class A, Class B, Class C, Class D, and Class E airspace areas and to reporting points will be published in full text as final rules in the **Federal Register**. Periodically, the final rule amendments will be integrated into a revised edition of the order and submitted to the Director of the Federal Register for approval for incorporation by reference in this section. Copies of FAA Order 7400.9C may be obtained from the Document Inspection Facility, APA–220, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, (202) 267–3485. Copies of FAA Order 7400.9C may be inspected in Docket No. 28306 at the Federal Aviation Administration, Office of the Chief Counsel, AGC–200, Room 915G, 800 Independence Avenue, SW., Washington, D.C. weekdays between 8:30 a.m. and 5:00 p.m., or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. This section is effective September 16, 1995, through September 15, 1996.

§ 71.5 [Amended]

3. Section 71.5 is amended by removing the words ''FAA Order 7400.9B'' and adding, in their place, the words ''FAA Order 7400.9C.''

§ 71.31 [Amended]

4. Section 71.31 is amended by removing the words ''FAA Order 7400.9B'' and adding, in their place, the words ''FAA Order 7400.9C.''

§ 71.33 [Amended]

5. Paragraph (c) of § 71.33 is amended by removing the words ''FAA Order 7400.9B'' and adding, in their place, the words ''FAA Order 7400.9C.''

§ 71.41 [Amended]

6. Section 71.41 is amended by removing the words ''FAA Order 7400.9B'' and adding, in their place, the words ''FAA Order 7400.9C.''

§ 71.51 [Amended]

7. Section 71.51 is amended by removing the words ''FAA Order 7400.9B'' and adding, in their place, the words ''FAA Order 7400.9C.''

§ 71.61 [Amended]

8. Section 71.61 is amended by removing the words ''FAA Order 7400.9B'' and adding, in their place, the words ''FAA Order 7400.9C.''

§ 71.71 [Amended]

9. Paragraphs (b), (c), (d), (e), and (f) of § 71.71 are amended by removing the words ''FAA Order 7400.9B'' and adding, in their place, the words ''FAA Order 7400.9C.''

§ 71.79 [Amended]

10. Section 71.79 is amended by removing the words ''FAA Order 7400.9B'' and adding, in their place, the words ''FAA Order 7400.9C.''

§ 71.901 [Amended]

11. Paragraph (a) of § 71.901 is amended by removing the words ''FAA Order 7400.9B'' and adding, in their place, the words ''FAA Order 7400.9C.''

Issued in Washington, DC, August 23, 1995.

Nancy B. Kalinowski,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 95–22606 Filed 9–11–95; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Center for Devices and Radiological Health

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations that delegate authority of the Commissioner of Food and Drugs (the Commissioner) to ensure that mammography facilities meet quality standards under the Mammography Quality Standards Act of 1992 (the MQSA) (Pub. L. 102–593). The authorities being redelegated include responsibilities under the MQSA that have not previously been redelegated by the Commissioner. The title of the delegation is being revised to reflect the expansion of authorities.

EFFECTIVE DATE: September 12, 1995.

FOR FURTHER INFORMATION CONTACT:

Richard E. Gross, Center for Devices and Radiological Health (HFZ–200), Food and Drug Administration, Piccard Bldg., 1350 Piccard Dr., Rockville, MD 20850, 301–443–2845, or

Ellen R. Rawlings, Division of Management Systems and Policy (HFA–340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4976.

SUPPLEMENTARY INFORMATION: FDA is amending § 5.85 (21 CFR 5.85) to redelegate authorities under the MQSA that were delegated to the Commissioner by the Acting Assistant Secretary for Health on June 10, 1993. That delegation gave the Commissioner authority to implement 15 sections of the MQSA (58 FR 32543). The Commissioner's authority to issue facility certificates was subsequently redelegated to officials of the Center for Devices and Radiological Health in 21 CFR 5.85 (59 FR 35849, July 14, 1994). That section is now being amended to redelegate the Commissioner's additional authority under the MQSA to

do the following: Issue and renew certificates to mammography facilities; receive applications for certificates; approve, withdraw approval from, and evaluate accreditation bodies; evaluate individual facility compliance with quality standards by conducting inspections; impose sanctions; suspend and revoke facility certificates; make information available to physicians and the general public useful in evaluating the performance of facilities; and authorize States to carry out certification requirements and implement quality standards. The heading for § 5.85 is being revised to reflect the expansion of authorities being redelegated. These authorities are redelegated to the Director and Deputy Director for Regulations and Policy, Center for Devices and Radiological Health (CDRH), the Director, Office of Health and Industry Programs (OHIP), CDRH, and the Director, Division of Mammography Quality and Radiation Programs, OHIP, CDRH, as set forth in the regulation. These authorities are directly related to current CDRH operations and programs.

Further redelegation of the authority delegated is not authorized at this time. Authority delegated to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis.

List of Subjects in 21 CFR Part 5

Authority delegations (Government agencies), Imports, Organization and functions (Government agencies).

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 5 is amended as follows:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

1. The authority citation for 21 CFR part 5 continues to read as follows:

Authority: 5 U.S.C. 504, 552, App. 2; 7 U.S.C. 138a, 2271; 15 U.S.C. 638, 1261–1282, 3701–3711a; secs. 2–12 of the Fair Packaging and Labeling Act (15 U.S.C. 1451–1461); 21 U.S.C. 41–50, 61–63, 141–149, 467f, 679(b), 801–886, 1031–1309; secs. 201–903 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321–394); 35 U.S.C. 156; secs. 301, 302, 303, 307, 310, 311, 351, 352, 354, 361, 362, 1701–1706, 2101, 2125, 2127, 2128 of the Public Health Service Act (42 U.S.C. 241, 242, 242a, 242l, 242n, 243, 262, 263, 263b, 264, 265, 300u–300u–5, 300aa–1, 300aa–25, 300aa–27, 300aa–28); 42 U.S.C. 1395y, 3246b, 4332, 4831(a), 10007–10008; E.O. 11490, 11921, and 12591; secs. 312, 313, 314 of the National Childhood Vaccine Injury Act of 1986, Pub. L. 99–660 (42 U.S.C. 300aa–1 note).

2. Section 5.85 is revised to read as follows:

§ 5.85 Authority to ensure that mammography facilities meet quality standards.

(a) The following officials are authorized to issue, renew, and extend certificates to mammography facilities under section 354(c) of the Public Health Service Act (42 U.S.C. 263b):

(1) The Director and Deputy Director for Regulations and Policy, Center for Devices and Radiological Health (CDRH).

(2) The Director, Office of Health and Industry Programs, CDRH.

(3) The Director, Division of Mammography Quality and Radiation Programs, Office of Health and Industry Programs, CDRH.

(b) The following officials are authorized to accept an application for a certificate under section 354(d)(1) of the Public Health Service Act:

(1) The Director and Deputy Director for Regulations and Policy, CDRH.

(2) The Director, Office of Health and Industry Programs, CDRH.

(3) The Director, Division of Mammography Quality and Radiation Programs, Office of Health and Industry Programs, CDRH.

(c) The following officials are authorized to approve accreditation bodies to accredit mammography facilities under section 354(e)(1)(A) of the Public Health Service Act:

(1) The Director and Deputy Director for Regulations and Policy, CDRH.

(2) The Director, Office of Health and Industry Programs, CDRH.

(d) The following officials are authorized to ensure that accreditation bodies provide satisfactory assurances of compliance under section 354(e)(1)(C) of the Public Health Service Act:

(1) The Director and Deputy Director for Regulations and Policy, CDRH.

(2) The Director, Office of Health and Industry Programs, CDRH.

(3) The Director, Division of Mammography Quality and Radiation Programs, Office of Health and Industry Programs, CDRH.

(e) The Director, CDRH, is authorized to promulgate regulations under which the Director may withdraw approval of accreditation bodies under section 354(e)(2) of the Public Health Service Act.

(f) The following officials are authorized to determine the applicable standards for a facility for accreditation under section 354(e)(3) of the Public Health Service Act:

(1) The Director and Deputy Director for Regulations and Policy, CDRH.

(2) The Director, Office of Health and Industry Programs, CDRH.

(3) The Director, Division of Mammography Quality and Radiation Programs, Office of Health and Industry Programs, CDRH.

(g) The following officials are authorized to ensure that accreditation bodies make on site visits and to determine whether other measures are appropriate under section 354(e)(4)(A) and (e)(4)(B) of the Public Health Service Act:

(1) The Director and Deputy Director for Regulations and Policy, CDRH.

(2) The Director, Office of Health and Industry Programs, CDRH.

(3) The Director, Division of Mammography Quality and Radiation Programs, Office of Health and Industry Programs, CDRH.

(h) The following officials are authorized to evaluate annually the performance of each approved accreditation body as provided by section 354(e)(6)(A) of the Public Health Service Act:

(1) The Director and Deputy Director for Regulations and Policy, CDRH.

(2) The Director, Office of Health and Industry Programs, CDRH.

(3) The Director, Division of Mammography Quality and Radiation Programs, Office of Health and Industry Programs, CDRH.

(i) The following officials are authorized to determine the compliance of certified facilities with established standards through facility inspections as provided by section 354(g) of the Public Health Service Act:

(1) The Director and Deputy Director for Regulations and Policy, CDRH.

(2) The Director, Office of Health and Industry Programs, CDRH.

(3) The Director, Division of Mammography Quality and Radiation Programs, Office of Health and Industry Programs, CDRH.

(j) The Director and Deputy Director for Regulations and Policy, CDRH, are authorized to impose sanctions under section 354(h)(1) and (h)(2) of the Public Health Service Act.

(k) The Director and Deputy Director for Regulations and Policy, CDRH, are authorized to suspend or revoke individual facility certificates under section 354(i)(1) and (i)(2)(A) of the Public Health Service Act.

(l) The Director and Deputy Director for Regulations Policy, CDRH, are authorized to compile and make available to physicians and the general public information the Director determines is useful in evaluating the performance of mammography facilities as provided by section 354(l) of the Public Health Service Act.

(m)(1) The following officials may authorize a State to carry out certification program requirements and implement quality standards under section 354(q)(1) and (q)(2) of the Public Health Service Act:

(i) The Director and Deputy Director for Regulations and Policy, CDRH.

(ii) The Director, Office of Health and Industry Programs, CDRH.

(2) The Director, CDRH, is authorized, after providing notice and opportunity for corrective action, to withdraw the approval of a State's authority to carry out certification requirements and implement quality standards under section 354(q)(4) of the Public Health Service Act.

Dated: September 1, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95–22578 Filed 9–11–95; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD11–95–007]

RIN 2115–AA97

Special Local Regulations; San Francisco Bay Navy Fleetweek Parade of Ships and Blue Angels Demonstration

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation.

SUMMARY: This notice implements 33 CFR 100.1105 for the Navy Fleetweek Parade of Ships and Blue Angels Demonstration, San Francisco Bay, California. This Fleetweek event features a parade of ships sailing into the Bay and low level air shows performed by the Navy's Blue Angels and other aircraft along the San Francisco waterfront. The regulations in 33 CFR 100.1105 are necessary to restrict vessel traffic in the regulated areas during Fleetweek 1995 to ensure the safety of participants and spectators.

EFFECTIVE DATES: The regulations in 33 CFR 100.1105 are effective on Thursday, October 5, 1995 through Sunday, October 8, 1995, terminating on each of those days at the end of the scheduled activity as follows:

Regulated area ''Alpha'' for the Navy Parade of Ships becomes effective at 8:30 a.m. PDT, October 7, 1995 and terminates at 12 noon PDT, October 7, 1995 or when the last U.S. Naval vessel in the column has exited regulated area ''Alpha'', whichever time is later, unless cancelled earlier by Commander, Coast Guard Group San Francisco.

Regulated area ''Bravo'' for the Blue Angels practice flights becomes effective at 10 a.m. PDT, October 5 and 6, 1995 and terminates at 4 p.m. on PDT each day, unless cancelled earlier by Commander, Coast Guard Group San Francisco. Regulated area ''Bravo'' for the Blue Angels demonstration and other airshow activities again becomes effective at 10 a.m. PDT, October 7, 1995, and 9:30 a.m., October 8, 1995, and terminates at 4 p.m. each day, unless cancelled earlier by Commander, Coast Guard Group San Francisco.

FOR FURTHER INFORMATION CONTACT: Lieutenant S. Cooley, Operations Officer, U.S. Coast Guard Group San Francisco, Yerba Buena Island, California, 94130–5000; telephone: (415) 399–3445.

SUPPLEMENTARY INFORMATION:

Discussion of Notice

The U.S. Navy/City of San Francisco Fleetweek Navy Parade of Ships and the Navy Blue Angels Aerial Show is scheduled for Saturday, October 7, 1995. Regulated area ''Alpha'' will ensure unobstructed waters for safe navigation of the Parade of Navy Ships proceeding inbound via the Eastbound San Francisco Bay Traffic Lane. Following the ship parade, regulated area ''Bravo'' for the aerial demonstration by the U.S. Navy Blue Angels and other aircraft will ensure the safety of the aircraft, vessels, and persons onboard. In preparation for this demonstration, the Blue Angels will conduct practice flights on October 5 and 6, 1995. An additional Blue Angels aerial demonstration is scheduled for October 8, 1995. The regulated area for the practice event and the performance by the Blue Angels and other aircraft will restrict vessel access to the marinas and commercial docks along the San Francisco waterfront. The short duration and minimal size of the regulated area will minimize any inconvenience. Persons and vessels shall not enter or remain within the stated distances from the Naval parade vessels in regulated area ''Alpha,'' or enter or remain within regulated area ''Bravo,'' unless authorized by the Coast Guard Patrol Commander. Fleetweek activities have traditionally attracted a sizable fleet of vessels, and large vessel operators needing to transmit near Fleetweek activities are encouraged to make such transits well before or after the regulated area are in effect.

Dated: August 30, 1995.

D.D. Polk,

Captain, U.S. Coast Guard, Commander, Eleventh Coast Guard District, Acting.

[FR Doc. 95–22530 Filed 09–11–95 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 100

[CGD 05–95–028]

Special Local Regulations for Marine Events; Hampton Bay Days Festival; Hampton River, Hampton, VA

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation.

SUMMARY: This notice announces that 33 CFR 100.508 is in effect for the Hampton Bay Days Festival, an annual event to be held on September 9 and 10, 1995 on the Hampton River. These special local regulations are necessary to control vessel traffic in the immediate vicinity of this event. The effect will be to restrict general navigation in the regulated area for the safety of spectators and participants.

EFFECTIVE DATES: The regulations in 33 CFR 100.508 are effective from 7 a.m., September 9, 1995 until 7 p.m., September 10, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen L. Phillips, Chief, Boating Affairs Branch, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004 (804) 398–6204 or Commander, Coast Guard Group Hampton Roads (804) 483–8567.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of this notice are QM1 Gregory C. Garrison, project officer, Boating Affairs Branch, Boating Safety Division, Fifth Coast Guard District, and LCDR J.C. Good, project attorney, Fifth Coast Guard District Legal Staff.

Discussion of Regulations

Hampton Bay Days, Inc. submitted an application to hold the Hampton Bay Days Festival on September 9 and 10, 1995. The marine portion of the festival will consist of a parade of boats, water ski shows, and assorted boat races. There will also be a fireworks display launched from within the regulated area. The regulations in 33 CFR 100.508 govern the activities of the Hampton Bay Days Festival held on the Hampton River, in and around downtown Hampton, Virginia. Implementation of 33 CFR 100.508 also implements as special anchorage areas the spectator anchorages designated in that section for use by vessels during the event.

Vessels less than 20 meters long may anchor in these areas without displaying the anchor lights and shapes required by Inland Navigation Rule 30 (33 U.S.C. 2030(g)).

These regulations were specifically established to enhance the safety of the participants in and spectators of the marine portions of the Hampton Bay Days Festival and the regulations are hereby implemented.

Dated: August 29, 1995.

N.V. Scurria, Jr.,

Captain, U.S. Coast Guard, Commander, Fifth Coast Guard District, Acting.

[FR Doc. 95–22531 Filed 9–11–95; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 117

[CGD 07–95–20]

RIN 2115–AE47

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, FL

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is removing the regulations governing the operation of the Merrill Barber, State Road 60 bridge, mile 951.9, at Vero Beach. This drawbridge has been replaced by a fixed bridge and there is no longer a need for the regulation.

EFFECTIVE DATE: October 12, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Walt Paskowsky, Project Manager, Bridge Section, (305) 536–4103.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, as notice of proposed rulemaking has not been published for these regulations, because there is no longer a need for the regulations as they pertain to a drawbridge that no longer exists.

Drafting Information

The principal persons involved in drafting this document are Walt Paskowsky, Project Manager, and LT Commander Rob Wilkins, Project Counsel.

Background and Purpose

The Merrill Barber bridge was replaced by a high level fixed bridge on March 1, 1995. The old drawbridge is in the process of being removed from the waterway. This removal is a requirement of the permit issued for the new bridge. The regulations in 33 CFR 117.261(n) governing the operation of the old drawbridge are no longer necessary and are being removed.

Environment

Under section 2.B.2.e(32)(e) of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation.

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. We conclude this because the drawbridge no longer exists.

List of Subjects in 33 CFR Part 117

Bridges.

In consideration of the foregoing facts, part 117 of Title 33 of the Code of Federal Regulations is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); Section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Section 117.261 paragraph (n) is removed and reserved.

§ 117.261 Atlantic Intracoastal Waterway from St. Mary's River to Key Largo.

* * * * *

(n) [Removed and reserved]

* * * * *

Dated: July 21, 1995.

R.T. Rufe, Jr.,

Rear Admiral, U.S. Coast Guard Commander, Seventh Coast Guard District.

[FR Doc. 95–22529 Filed 9–11–95; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 165

[CGD02–95–015]

RIN 2115–AE84

Regulated Navigation Area; Ohio River Mile 461.0 to 462.0

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a regulated navigation area on the Ohio River from mile 461.0 to mile 462.0. This regulation is needed to protest and control recreational and commercial vessel traffic during three Jimmy Buffet concerts at the Riverbend Music Center, Cincinnati, Ohio. This regulation will restrict general navigation in the regulated area for the safety of recreational and commercial vessels.

EFFECTIVE DATES: This regulation is effective between 8 p.m. and 11 p.m. EDST on September 22, 23, and 26, 1995.

FOR FURTHER INFORMATION CONTACT: CWO Ken Smith, Operations Officer, Captain of the Port, Louisville, Kentucky at (502) 582–5194.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this document are Chief Warrant Officer Ken Smith, Operations Officer for the Captain of the Port Louisville, Kentucky, and Lieutenant S. Moody, Project Attorney, Second Coast Guard District Legal Office, St. Louis, MO.

Regulatory History

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for this regulation and good cause exists for making it effective in less than 30 days from the date of publication. Overriding safety concerns and short notice of scheduling of the event made following normal rulemaking procedures impracticable. Three Jimmy Buffet concerts at the Riverbend Music Center, an arena located on the shores of the Ohio River, are expected to attract hundreds of recreational vessels to the area. These shoreside concerts are not marine events and therefore the sponsors were not required to notify the Coast Guard of the event. As a result, the Coast Guard did not learn of the need for vessel traffic control in time to publish a notice of proposed rulemaking.

Background and Purpose

For the past few years Jimmy Buffet has performed annual concerts at the

Riverbend Music Center and over that period of time the concerts have increased in popularity. In the last few years, this particular concert series has attracted an increasingly large number of spectator craft, posing a significant hazard to navigation. This increased number of vessels has contributed to an unusually high number of close calls between spectator craft and commercial traffic. The purpose of this regulation is to establish navigation and operating restrictions which will serve to separate recreational vessels from commercial vessel traffic, and if needed, to escort commercial traffic through the regulated navigation zone.

Regulatory Evaluation

This regulation is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). Because of the limited duration of the restrictions, the Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

To avoid any unnecessary adverse economic impact on businesses which use the river for commercial purposes, Captain of the Port, Louisville, Kentucky will monitor river conditions and will amend restrictions in the regulated area as conditions permit. Changes will be announced by Marine Safety Information Radio broadcast (Broadcast Notice to Mariners) on VHF marine band radio, channel 22 (157.1 MHz). Mariners may also call the Port Operations Officer, Captain of the Port, Louisville, Kentucky at (502) 582–5194 for current information.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. ''Small entities'' include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as ''small business concerns'' under section 3 of the Small Business Act (15 U.S.C. 632).

Because the Coast Guard expects the impact of this proposal to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this regulation, if adopted, will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism Assessment

The Coast Guard has analyzed this regulation under the principles and criteria contained in Executive Order 12612 and has determined that it does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard considered the environmental impact of this regulation and concluded that, under section 2.B.2 of Commandant Instruction M16475.1B, as revised by 59 FR 38654; July 29, 1994, this regulation is categorically excluded from further environmental documentation as an action required to protect public safety.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Records and recordkeeping, Security measures, Vessels, Waterways.

Temporary Regulation

In consideration of the foregoing, subpart F of part 165 of Title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citations for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 604–6, and 160.5; 49 CFR 1.46.

2. A temporary § 165.T02–064 is added to read as follows:

§ 165–T02–064 Regulation Navigation Area: Ohio River.

(a) *Location.* The Ohio River between mile 461.0 and 462.0 is established as a regulated navigation area.

(b) *Effective dates.* This section is effective between 8 p.m. and 11 p.m. EDST on September 22, 23, and 26, 1995.

(c) *Regulations.* (1) Commercial vessels transiting the regulated navigation area shall proceed at minimum steerage and at the direction of Coast Guard officers or petty officers who will be patrolling the regulated area on board Coast Guard vessels.

(2) Recreational vessels within the area shall not anchor or moor in the navigable channel.

(3) The Captain of the Port, Louisville, Kentucky may, upon request, or for good cause, depending on on-scene conditions, authorize a deviation from any regulation in this section if it is found that proposed or needed operations can be performed safely.

(4) The Captain of the Port, Louisville, Kentucky will notify the maritime community of river conditions affecting the area covered by this regulated navigation of by Marine Safety Information Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz).

Dated: August 30, 1995.

Paul M. Blayney,

Rear Admiral, U.S. Coast Guard Commander, Second Coast Guard District, St. Louis, MO

[FR Doc. 95–22528 Filed 9–11–95; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 165

[COTP Huntington 95–002]

RIN 2115–AA97

Safety Zone; Little Kanawha River, Mile 0.9 to 1.9, Worthington Creek Entrance, Wood County, WV

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone on the Little Kanawha River, at the entrance to Worthington Creek, Wood County, West Virginia, and all adjacent landside areas within a 500 foot radius of each specific explosive detonation site. This regulation is needed to control vessel traffic in the regulated area to prevent potential safety hazards for transiting vessels and the general public resulting from the demolition of the East Street Bridge at mile 1.4, Little Kanawha River, Parkersburg, West Virginia. Vessel movements within this safety zone are permitted under the criteria set forth in this regulation.

EFFECTIVE DATE: This regulation is effective at 6 a.m. EDT on September 11, 1995. It terminates on November 11, 1995 at 8 p.m. EST, unless terminated sooner by the Captain of the Port Huntington.

FOR FURTHER INFORMATION CONTACT: LT Sean Moon, Chief of the Port Operations Department, Captain of the Port, Huntington, West Virginia at (304) 529–5524.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of this regulation are LTJG Steven Frye, Project Officer, Marine Safety Office, Huntington, West Virginia and LT S. Moody, Project Attorney, Second Coast Guard District Legal Office.

Regulatory History

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after Federal Register publication. Following normal rulemaking procedures would have been impracticable. Specifically, anticipated demolition operations, including explosive detonations, as part of a bridge removal project at mile 1.4, Little Kanawha River, Parkersburg, West Virginia, have created a situation which presents an immediate hazard to navigation, life, and property. As a result, the Coast Guard deems it to be in the public's best interest to issue a regulation immediately.

Background and Purpose

The activity requiring this regulation is a bridge demolition undertaken as a part of the replacement of a bridge under United States Coast Guard Bridge Permit Number 3–95–2 dated March 29, 1995. The Captain of the Port Huntington received notice of the intended explosive and demolition operations August 14, 1995. The bridge permit included the requirement that the existing bridge be demolished before construction of the new bridge. Waterside demolition operations, involving the use of crane barges and explosives in and near the navigation channel, will begin on or about September 11, 1995 at mile 1.4 on the Little Kanawha River. Completion of the bridge removal is expected to occur on or before November 11, 1995. Bridge spans and bridge piers will be removed in sections, one at a time, over a period of several months. In addition to the explosive hazard associated with several different detonations, the regular presence of a crane barge, tow boats and submerged steel will pose an obstructive hazard to waterborne traffic operating in the vicinity of the project work site. In order to provide for the safety of vessel traffic and the general public, the Captain of the Port Huntington intends to regulate vessel traffic in that portion of the Little Kanawha River where the explosives and steel removal operations will be taking place, and to work with local law enforcement officials to secure all landside areas within a 500 foot radius of each specific blast site until the hazard from the explosive detonations is mitigated.

During critical phases of the demolition project, the affected portions of the Little Kanawha River, the entrance to Worthington Creek, and adjacent landside areas in proximity to the blast site will be subject to periodic closures. No vessels will be allowed to transit the affected waterway when blasting and steel removal operations will impede safe navigation. Additionally, local law enforcement officials will secure landside areas as appropriate to safeguard the general public from the explosive hazard during detonations.

Notification of river and creek entrance closure will be made via Broadcast Notice to Mariners at periods 24 hours, 2 hours, and 5 minutes prior to each blast. Notification will be via VHF radio channel 16.

During all river and creek entrance closures, two boats will be available for the security of the closed river area. The boats will be placed up and down the river of the blasting area. These boats will patrol and warn any recreational/commercial vessel traffic of the impending blast.

No blasting will be permitted unless all river and creek traffic is removed to a safe location outside of the blasting area. No blasting will take place when there is restricted visibility (visibility must be at least ½ mile). No blasting will take place unless the river stage is at or will be during operations no more than four feet above normal pool.

Unless overtaken by circumstances, periodic river and creek closures will be less than 24 hours in duration. Closures of Worthington Creek entrance will be very abbreviated, during blasting operations only. Closures of the Little Kanawha River will be during blasting and clearing operations and will remain in effect until the river is cleared and the safety of transiting vessels is ensured. Local law enforcement officials will restrict access and secure landside areas as necessary to protect the public from explosive hazards. Road closures, evacuations, and other appropriate security measures will be imposed for abbreviated periods only.

When the blasting and obstructive hazards have been mitigated, the Captain of the Port Huntington will reopen the river. Notification of the reopening of the river will be via VHF radio on channel 16. The entrance to Worthington Creek will be reopened to vessel traffic entering the Little Kanawha River upon the conclusion of each blasting operation. Vessels transiting to or from the Worthington Creek entrance must contact the on scene contractor's vessel for passing instructions to ensure safe operation within the safety zone. Local law enforcement officials will reopen landside areas immediately upon conclusion of blasting operations. Notice of this safety zone and updates on periodic closures will also be published in the Local Notice to Mariners.

The establishment of this safety zone regulation helps to ensure that vessels will not transit the Little Kanawha River in the vicinity of the blasting area during explosive detonations or when the main channel is obstructed by submerged steel to eliminate attendant risks associated with these operations. The Captain of the Port will also work with local law enforcement officials to protect the safety of the general public in adjacent landside areas. The safety zone also helps to ensure that communication is established between the contractors and vessels transiting the waters within the safety zone during the noncritical phases of the demolition project. With proper communication between both parties, the contractor is assured of having ample time to comply with any request to relocate work boats temporarily to allow a vessel to navigate through the safety zone.

Regulatory Evaluation

This regulation is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this regulation to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary, due to the limited duration of actual river closures.

Small Entities

The Coast Guard finds that the impact on small entities is not substantial. Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq*) that this temporary rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirements under the

Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism Assessment

The Coast Guard has analyzed this regulation under the principles and criteria contained in Executive Order 12612 and has determined that it does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard considered the environmental impact of this regulation and concluded that, under section 2.B.2 of Commandant Instruction M16475.1B, (as revised by 59 FR 38654, July 29, 1994) this regulation is categorically excluded from further environmental documentation. A Categorical Exclusion Determination is available in the docket for inspection.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Records and recordkeeping requirements, Security measures, Waterways.

Temporary Regulation

In consideration of the foregoing, subpart F of part 165 of Title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46

2. A temporary § 165.T02–003 is added, to read as follows:

§ 165–T02–003 Safety Zone: Little Kanawha River, Worthington Creek Entrance

(a) *Location.* The Little Kanawha River between miles 0.9 and 1.9, the entrance to Worthington Creek, Wood County, West Virginia is established as a safety zone.

(b) *Effective dates.* This section is effective on September 11, 1995 at 6 a.m. EDT. It terminates on November 11, 1995 at 8 p.m. EST, unless terminated sooner by the Captain of the Port Huntington.

(c) *Regulations.* (1) All vessels must, except those vessels with explicit permission from the Captain of the Port:

(i) Remain outside the safety zone during all periods of closure, as announced by Coast Guard Broadcast Notice to Mariners and as enforced on scene by personnel from the Coast Guard Marine Safety Office Huntington, WV.

(ii) Communicate with the contract vessel M/V WILLIAM H. ELLIOT on channel 16 VHF–FM to arrange for safe passage through the safety zone at all other times, providing at least ten (10) minutes advance notice prior to transiting through the regulated area.

(iii) Provide the contract vessel M/V WILLIAM H. ELLIOT at least ten (10) minutes advance notice to move/suspend operations in any case where the transiting vessel operator believes the safe passage of any vessel or tow is jeopardized by the presence/operation of the crane barge during operations not involving river closure.

(2) Vessels involved with the East Street Bridge demolition operations must, except those vessels with explicit permission from the Captain of the Port:

(i) M/V WILLIAM H. ELLIOT: Communicate with and arrange safe passage through the safety zone for all vessels not involved in the demolition project.

(ii) M/V WILLIAM H. ELLIOT: Initiate appropriate broadcast notices to local mariners over channel 16 VHF–FM 24 hours, 2 hours, and 5 minutes prior to initiation of blasting operations.

(iii) M/V WILLIAM H. ELLIOT: Ensure that all vessel traffic is outside the area of the safety zone and the waterside blast area is secured prior to any explosive detonation, with that information effectively communicated to the contractors conducting the blasting.

(iv) M/V WILLIAM H. ELLIOT: Monitor operations involving steel and debris removal after each detonation and, following clearance of the river, the conduct of subsequent subsurface sweeps of the main channel.

(v) M/V WILLIAM H. ELLIOT: Notify the Coast Guard Captain of the Port Huntington once a successful sweep has determined that the Little Kanawha River main shipping channel is clear (a minimum underwater clearance of 15 feet below normal river pool), with no obstructions to impede the safe navigation of vessels.

(vi) All other contract vessels: Relocate to a safe area prior to any blasting operations.

(3) AMERICAN BRIDGE COMPANY must, except with explicit permission from the Captain of the Port:

(i) Not detonate explosives if a vessel not involved with the blasting operation is inside the safety zone, or if any contract vessel has not relocated to a safe distance away from the blast area, as verified and communicated by the M/V WILLIAM H. ELLIOT.

(ii) Not initiate any blasting operations until local law enforcement officials have verified and communicated that landside security is established and that landside portions of the safety zone are clear.

(iii) Not initiate any blasting operations in periods of restricted visibility (operator must ensure there is clear bank-to-bank visibility).

(iv) Not initiate any blasting operations in a period of forty-eight (48) hours after it has been determined by the Captain of the Port that blasting operations have been suspended for the scheduled date and time to allow proper rescheduling of demolition operations with federal and state representatives, local authorities, and industry.

(4) The Captain of the Port may, upon request, authorize a deviation from any rule in this section if he determines that the proposed operations can be done safely.

(5) The Captain of the Port may direct the movement of any vessel within the safety zone as appropriate to ensure the safe navigation of vessels through the safety zone.

Dated: August 22, 1995, 4:30 p.m. EDT.

G.H. Burns III,

Lieutenant Commander, U.S. Coast Guard, Captain of the Port, Huntington, WV.

[FR Doc. 95–22532 Filed 9–11–95; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 153–1–7165a; FRL–5278–7]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, El Dorado County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on revisions to the California State Implementation Plan. The revisions concern a rule from the El Dorado County Air Pollution Control District (EDCAPCD). This rule controls volatile organic compound (VOC) emissions from lumber processing and timber manufacturing operations. This approval action will incorporate the rule into the federally approved SIP.

The intended effect of approving this rule is to regulate emissions of VOCs in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In addition, the final action on this rule serves as a final determination that the finding of

nonsubmittal for this rule has been corrected and that on the effective date of this action, any Federal Implementation Plan (FIP) clock is stopped. Thus, EPA is finalizing the approval of this revision into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards, and plan requirements for nonattainment areas.

DATES: This final rule is effective on November 13, 1995 unless adverse or critical comments are received by October 12, 1995. If the effective date is delayed, a timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the rule and EPA's evaluation report for the rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule are available for inspection at the following locations:

Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Environmental Protection Agency, Air Docket (6102), 401 ''M'' Street, SW., Washington, DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95814.

El Dorado County Air Pollution Control District, 330 Fair Lane, Placerville, CA 95667.

FOR FURTHER INFORMATION CONTACT: Duane F. James, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1191.

SUPPLEMENTARY INFORMATION:

Applicability

The rule being approved into the California SIP is EDCAPCD's Rule 234, ''VOC RACT Rule—Sierra Pacific Industries.'' This rule was submitted by the California Air Resources Board to EPA on June 16, 1995.

Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 Act or pre-amended Act), that included a portion of El Dorado County in the Sacramento Metro Area. 43 FR 8964, 40 CFR 81.305. On May 26, 1988, EPA notified the Governor of California, pursuant to section 110(a)(2)(H) of the 1977 Act, that the above district's portion of the California SIP was inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. In amended section 182(b)(2)(C) of the CAA, Congress statutorily required nonattainment areas to submit reasonably available control technology (RACT) rules for all major stationary sources of VOCs by November 15, 1992 (the RACT ''catch-up'' requirement).

At the time of enactment of the CAA amendments, the Sacramento Metro Area was classified as serious; [1] therefore, this area was subject to the RACT catch-up requirement and the November 15, 1992 deadline.[2]

The State of California submitted many revised RACT rules for incorporation into its SIP on June 16, 1995, including the rule being acted on in this notice. This notice addresses EPA's direct-final action for EDCAPCD's Rule 234, ''VOC RACT Rule—Sierra Pacific Industries.'' EDCAPCD adopted Rule 234 on April 25, 1995. This submitted rule was found to be complete on July 31, 1995, pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51 Appendix V [3] and is being finalized for approval into the SIP.

Rule 234 controls VOC emissions from a waste-fired boiler (Boiler #3) at Sierra Pacific Industries in Camino, California. VOCs contribute to the production of ground level ozone and smog. This rule was adopted as part of EDCAPCD's effort to achieve the National Ambient Air Quality Standard (NAAQS) for ozone and in response to section 182(b)(2)(C). A similar rule was promulgated by EPA on February 14, 1995, as part of an ozone attainment Federal Implementation Plan (FIP).[4] The following is EPA's evaluation and final action for Rule 234.

EPA Evaluation and Action

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the various EPA policy guidance documents.[5] Among those provisions is the requirement that a VOC rule must, at a minimum, provide for the implementation of RACT for stationary sources of VOC emissions. This requirement was carried forth from the pre-amended Act.

For the purpose of assisting state and local agencies in developing RACT rules, EPA prepared a series of Control Technique Guideline (CTG) documents. The CTGs are based on the underlying requirements of the Act and specify the presumptive norms for what is RACT for specific source categories. Under the CAA, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to ''catch-up'' their RACT rules. See section 182(b)(2). For some categories, such as lumber processing and timber manufacturing, EPA did not publish a CTG. In such cases, the state and local agencies may determine what controls are required by reviewing the operation of facilities subject to the regulation and evaluating regulations for similar sources in other areas. Therefore, the EDCAPCD must determine the VOC control measures that are reasonable and available for Sierra Pacific based on its operations. Further interpretations of EPA policy are found in the Blue Book, referred to in footnote 5. In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

EDCAPCD's Rule 234, ''VOC RACT Rule—Sierra Pacific Industries,'' limits the emissions of volatile organic

[1] The Sacramento Metro Area was reclassified from serious to severe on June 1, 1995. See 60 FR 20237 (April 25, 1995).

[2] California did not make the required SIP submittal by November 15, 1992. On March 29, 1994, the EPA made a finding of failure to make a submittal pursuant to section 179(a)(1), which started an 18-month sanction clock. The rule being acted on in this direct final rule was submitted in response to the EPA finding of failure to submit.

[3] EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

[4] The ozone attainment FIP was a court ordered requirement, which applied to the Sacramento, Ventura, and South Coast ozone nonattainment areas in California, and was not a result of the March 29, 1994, findings letter. The final FIP rule was signed on February 14, 1995, but was not published in the **Federal Register**. The FIP was rescinded by Congressional action on April 10, 1995. Pub. L. 104–6, Defense Supplemental Appropriation, H.R. 889.

[5] Among other things, the pre-amendment guidance consists of those portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register** Notice'' (Blue Book) (notice of availability was published in the **Federal Register** on (May 25, 1988); and the existing control techniques guideline (CTGs).

compounds (VOCs) to 150 parts per million volume (ppmv) from a waste-fired boiler (Boiler #3) at Sierra Pacific. This standard is maintained through any one or more of the following: (1) use of fuel with a maximum moisture content of 50%, (2) operation of the boiler at optimal combustion conditions, (3) proper operation and maintenance of pollution control equipment, and/or (4) periodic inspection, maintenance, and repairs on the boiler and other equipment. Records must be maintained of system operating parameters, including temperatures, pressures, fuel flow rate, steam production rate, repair, fuel moisture, and all VOC control measures. All records must be maintained for five years. Compliance with the emission standard is demonstrated using EPA Methods 25 or 25A. The APCO has to be notified within 48 hours if the emission standard is exceeded. Final compliance with Rule 234 is required by February 1, 1996. A more detailed discussion of the source controlled, the controls required, and the justification for why these controls represent RACT can be found in the Technical Support Document (TSD) for Rule 234, dated May 25, 1995.

EPA has evaluated the submitted rule and has determined that it is consistent with the CAA, EPA regulations, and EPA policy. Therefore, EDCAPCD's Rule 234, ''VOC RACT Rule—Sierra Pacific Industries,'' is being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and Part D. Therefore, if this direct final action is not withdrawn, on November 13, 1995, any FIP clock associated with the finding of failure to submit is stopped.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

EPA is publishing this notice without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective November 13, 1995, unless, October 12, 1995, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective November 13, 1995.

Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises and government entities with jurisdiction over population of less than 50,000.

SIP approvals under sections 110 and 301(a) and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256–66 (S. Ct. 1976); 42 U.S.C. 7410 (a)(2).

Unfunded Mandates

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Part D of the Clean Air Act. These rules may bind State, local, and tribal governments to perform certain actions and also require the private sector to perform certain duties. The rule being approved by this action will impose no new requirements because the affected source is already subject to this regulation under State law. Therefore, no additional costs to State, local, or tribal governments or to the private sector result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this action from review under Executive Order 12866.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: August 10, 1995.

Felicia Marcus,

Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(222)(i)(B) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(222) * * *

(i) * * *

(B) El Dorado County Air Pollution Control District.

(*1*) Rule 234, adopted on April 25, 1995.

* * * * *

[FR Doc. 95–22154 Filed 9–11–95; 8:45 am]
BILLING CODE 6560–50–W

40 CFR Part 52

[AK–4–1–6027a, WA–7–1–5542a, WA–38–1–6974a; FRL–5277–9]

Clean Air Act Attainment Extensions for PM–10 Nonattainment Areas: Alaska and Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This action identifies those nonattainment areas in the State of Alaska and the State of Washington which have failed to attain the National Ambient Air Quality Standards (NAAQS) for particulate matter with an aerodynamic diameter of less than or equal to ten micrometers (PM–10) by the applicable attainment date. This action also serves to grant a 1 year attainment date extension for three nonattainment areas: Mendenhall Valley, Alaska; Spokane, Washington; and Wallula, Washington, for PM–10.

DATES: This action will be effective on November 13, 1995 unless adverse or critical comments are received by October 12, 1995. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the State's request and other information supporting this proposed action are available for inspection during normal business hours at the following locations: EPA, Air & Radiation Branch (AT–082), 1200 Sixth Avenue, Seattle, Washington 98101; the Alaska Department of Environmental Conservation, 410 Willoughy, Suite 105, Juneau, Alaska, 99801–1795; and the Washington State Department of Ecology, P.O. Box 47600, PV–11, Olympia, WA 98504–7600.

FOR FURTHER INFORMATION CONTACT: Christi Lee, Environmental Scientist, Air & Radiation Branch (AT–082), EPA, Seattle, Washington, (206) 553–1814, or George Lauderdale, Environmental Protection Specialist, Air & Radiation Branch (AT–082), EPA, Seattle, Washington, (206) 553–6511.

SUPPLEMENTARY INFORMATION:

I. Background

A. CAA Requirements Concerning Designation and Classification

Areas meeting the requirements of section 107(d)(4)(B) of the Act [1] were designated nonattainment for PM–10 by operation of law and classified ''moderate'' upon enactment of the 1990 Clean Air Act Amendments. *See generally* Section 107(d)(4)(B). These areas included all former Group I PM–10 planning areas identified in 52 FR 29383 (August 7, 1987), as further clarified in 55 FR 45799 (October 31, 1990), and any other areas violating the National Ambient Air Quality Standards (NAAQS) for PM–10 prior to January 1, 1989.[2] A **Federal Register** notice announcing the areas designated nonattainment for PM–10 upon enactment of the 1990 Amendments, known as ''initial'' PM–10 nonattainment areas, was published on March 15, 1991 (56 FR 11101), and a subsequent **Federal Register** notice correcting the description of some of those areas was published on August 8, 1991 (56 FR 37654). *See* 56 FR 56694 (November 6, 1991) and 40 CFR 81.303 and 40 CFR 81.348 (for codified air quality designations and classifications in the State of Alaska and Washington, respectively). All initial moderate PM–10 nonattainment areas have the same applicable attainment date of December 31, 1994.

States containing initial moderate PM–10 nonattainment areas were required to develop and submit to EPA by November 15, 1991, a SIP revision providing for, among other things, implementation of reasonably available control measures (RACM), including reasonably available control technology (RACT), and a demonstration either that the plan would provide for attainment of the PM–10 NAAQS by December 31, 1994 or that attainment by that date was impracticable. *See* Section 189(a).

B. Attainment Determinations

All PM–10 areas designated nonattainment pursuant to section 107(d)(4)(B) of the Act were initially classified ''moderate'' by operation of law upon enactment of the 1990 Clean Air Act Amendments. *See* Section 188(a). Pursuant to sections 179(c) and 188(b)(2) of the Act, EPA has the responsibility of determining within six months of the December 31, 1994, attainment date whether PM–10 nonattainment areas have attained the NAAQS. Determinations under section 179(c)(1) of the Act are to be based upon an area's ''air quality as of the attainment date.'' Section 188(b)(2) is consistent with this requirement. Generally, EPA will determine whether an area's air quality is meeting the PM–10 NAAQS for purposes of section 179(c)(1) and 188(b)(2) based upon data gathered at established State and Local Monitoring Stations (SLAMS) in the nonattainment area and entered into the Aerometric Information Retrieval System (AIRS). Data entered into the AIRS has been determined by EPA to meet federal monitoring requirements (see 40 CFR 50.6 and appendix J, 40 CFR part 53, 40 CFR 58, appendix A & B) and may be used to determine the attainment status of areas. EPA will also consider air quality data from other air monitoring stations in the nonattainment area provided that it meets the federal monitoring requirements for SLAMS. All data will be reviewed to determine the area's air quality status in accordance with EPA guidance at 40 CFR part 50, appendix K.

Attainment of the annual PM–10 standard is achieved when the annual arithmetic mean PM–10 concentration over a three-year period (1992, 1993 and 1994 for areas with a December 31, 1994 attainment date) is equal to or less than 50 micrograms per cubic meter ($\mu g/m^3$). Attainment of the 24-hour standard is determined by calculating the expected number of days in a year with PM–10 concentrations greater than 150 $\mu g/m^3$. The 24-hour standard is attained when the expected number of days with levels above 150 $\mu g/m^3$ (averaged over a three-year period) is less than or equal to one (1.0). Three consecutive years of air quality data is generally necessary to show attainment of the annual and 24-hour standard for PM–10. *See* 40 CFR part 50 and appendix K.

C. Extension of the Attainment Date

The Act provides the Administrator with the discretion to grant a one-year extension of the attainment date for a moderate PM–10 nonattainment area, provided certain criteria are met. *See* Section 188(d). If an area does not have the necessary number of consecutive years of clean air quality data to show attainment of the NAAQS, a State may apply for up to two one-year extensions of the attainment date for that area. The statute sets forth two criteria a moderate nonattainment area must satisfy in order to obtain an extension: (1) The State has complied with all the requirements and

[1] The 1990 Amendments to the Clean Air Act made significant changes to the Act. See Public Law No. 101–549, 104 Stat. 2399. References herein are to the Clean Air Act as amended (''Act'' or ''CAA''), which is codified at 42 U.S.C. § 7401 *et seq.*

[2] Many of these other areas were identified in footnote 4 of the October 31, 1990 **Federal Register** notice.

commitments pertaining to the area in the applicable implementation plan; and (2) the area had no more than one exceedance of the 24-hour PM–10 standard in the year preceding the extension year, and the annual mean concentration of PM–10 in the area for the year preceding the extension year is less than or equal to the standard. *See* Section 188(d).

The authority delegated to the Administrator to extend attainment dates for moderate PM–10 nonattainment areas is discretionary: Section 188(d) of the Act provides that the Administrator ''may'' extend the attainment date for areas that meet the minimum requirements specified above. The provision does not dictate or compel that EPA grant extensions to such areas even if these conditions are met.

In exercising this discretionary authority for PM–10 nonattainment areas, EPA examines, in addition to the two statutory criteria discussed above, the air quality planning progress made in the moderate area. *See* November 14, 1994 Memorandum from Sally L. Shaver, Director, Air Quality Strategies and Standards Division entitled ''Criteria for Granting 1-Year Extensions of Moderate PM–10 Nonattainment Area Attainment Dates, Making Attainment Determinations, and Reporting on Quantitative Milestones.'' EPA is disinclined to grant an attainment date extension unless a State has, in substantial part, addressed its moderate PM–10 nonattainment area planning obligations. In order to determine whether the State has substantially met these planning requirements, EPA reviews the State's application for the attainment date extension to determine whether the State has: (1) Adopted and substantially implemented control measures that represent RACM/RACT in the moderate nonattainment area; and (2) demonstrated that the area has made emission reductions amounting to reasonable further progress (RFP) toward attainment of the PM–10 NAAQS as defined in section 171(1) of the Act. RFP for PM–10 nonattainment areas is defined in section 171(1) of the Act as annual incremental emission reductions to ensure attainment of the applicable NAAQS (PM–10) by the applicable attainment date.

If the State does not have the requisite number of years of clean air quality data to show attainment and does not apply or qualify for an attainment date extension, the area will be reclassified to serious by operation of law under section 188(b)(2) of the Act. If an extension of the attainment date is granted, at the end of the extension year EPA will again determine whether the area has attained the PM–10 NAAQS. If the requisite three consecutive years of clean air quality data needed to determine attainment are not met for the area, the State may apply for a second one-year extension of the attainment date. In order to qualify for the second one-year extension of the attainment date, the State must satisfy the same requirements listed above for the first extension. In addition, EPA will consider the State's PM–10 planning progress for the area during the year for which the first extension was granted. If a second extension is granted and the area does not have the requisite three consecutive years of clean air quality data needed to demonstrate attainment at the end of the second extension, no further extensions of the attainment date can be granted and the area will be reclassified serious by operation of law. *See* Section 188(d).

II. Summary of Today's Action

Today's action announces EPA's determination that the Mendenhall Valley, Alaska, PM–10 nonattainment area and the Spokane and Wallula, Washington, PM–10 nonattainment areas have each failed to attain the PM–10 NAAQS by the applicable attainment date of December 31, 1994. This determination is based upon air quality data which show there were violations of the PM–10 NAAQS in each of these areas during the period from 1992 to 1994.

The State of Alaska has requested a one-year extension of the PM–10 attainment date for the Mendenhall Valley nonattainment area. The State of Washington has requested a one-year extension of the PM–10 attainment date for both the Spokane PM–10 nonattainment area and the Wallula PM–10 nonattainment area. EPA has reviewed these extension requests and is granting a one-year extension of the attainment date for each area. This determination is based upon available air quality data and a review of the State's progress in implementing the planning requirements that apply to moderate PM–10 nonattainment areas.

A. Mendenhall Valley, Alaska, PM–10 Nonattainment Area

The Mendenhall Valley PM–10 nonattainment area is located nine miles from downtown Juneau and is Juneau's largest residential area.

1. Air Quality Data

The Mendenhall Valley nonattainment area has three PM–10 monitoring sites: Floyd Dryden, Glacier Auto and Trio Street. These SLAMS sites were established in 1986, 1988, and 1989 respectively. Glacier Auto was discontinued in 1993. Sampling at the Floyd Dryden and Trio Street sites are every day. Sampling at Glacier Auto is every other day. Data from these sites have been deemed valid by EPA and submitted by the State of Alaska for inclusion in the AIRS system.

A review of the data for calendar years 1992, 1993 and 1994 for the Mendenhall Valley PM–10 nonattainment area shows no violation of the annual PM–10 standard. During this same three year period, the Trio monitor reported one measurement above the level of the 24-hour NAAQS in calendar year 1992 and three measurements above the level of the 24-hour NAAQS in calendar year 1993. There were no measured levels above the 24-hour NAAQS in calendar year 1994.

2. Attainment of the PM–10 NAAQS

The Mendenhall Valley PM–10 nonattainment area does not attain the 24-hour PM–10 NAAQS. PM–10 concentrations reported from the SLAMS monitoring station at Trio Street exceeded the level of the NAAQS three times in 1993. Because of the sampling frequency, the expected exceedance rate for this three-year period is 3.07 (calculated in accordance with appendix K), which represents a violation of the 24-hour standard.

3. Extension of Attainment Date

EPA is granting the State's request for a one-year extension of the attainment date, from December 31, 1994 to December 31, 1995, for the Mendenhall Valley PM–10 nonattainment area.

a. Compliance With Applicable SIP

Based on information available to EPA, EPA believes the State of Alaska is in compliance with all requirements and commitments in the applicable implementation plan that pertains to the Mendenhall Valley PM–10 nonattainment area. EPA has fully approved the State's moderate PM–10 nonattainment area plan as a SIP revision for the Mendenhall Valley PM–10 nonattainment area. (52 FR 13885). EPA believes that the State is meeting the requirements and commitments of the statewide SIP and is in compliance with the Mendenhall Valley PM–10 SIP revision.

b. Air Quality Data

As discussed above, there were no measured levels above the 24-hour NAAQS during calendar year 1994. The annual mean concentration of PM–10 was 21 $\mu g/m^3$ during 1994, well below

the standard. Therefore, the Mendenhall Valley PM–10 nonattainment area meets the extension criteria of no more than one exceedance of the 24-hour NAAQS and an annual mean concentration less than or equal to the standard for the year preceding the extension year.

c. Substantial Implementation of Control Measures

The State of Alaska has developed and implemented a significant control measure on the major PM–10 source within the Mendenhall Valley nonattainment area. The measure consists of controlling fugitive road dust by implementing a Valley-wide street paving project. The EPA determined this control measure met EPA's guidance for RACM/RACT for sources in the nonattainment area and approved the State's SIP revision on April 25, 1994 (52 FR 13885).

d. Emission Reduction Progress

On April 19, 1995, the State of Alaska submitted to EPA the milestone report required by section 189(c)(2) of the Act to demonstrate annual incremental emission reductions and reasonable further progress in the Mendenhall Valley area. In that report, which is contained in the docket supporting this rulemaking, the State discusses implementation of the control measures adopted as part of the control strategy in the SIP and the emission reductions that have been achieved as a result of the State's control strategy. At the end of 1994, 96 percent of the proposed road paving had been completed which reduced particulate emissions by 654 tons. EPA believes that the estimated reductions in emissions from the aggressive paving project demonstrates reasonable further progress in the Mendenhall Valley nonattainment area.

In summary, for the reasons discussed above, EPA is granting the State's request for a one-year extension of the attainment date for the Mendenhall Valley PM–10 nonattainment area from December 31, 1994 to December 31, 1995.

B. Spokane PM–10 Nonattainment Area

The Spokane PM–10 nonattainment area is an urban area located in the northeastern portion of the State of Washington.

1. Air Quality Data

The Spokane nonattainment area has a relatively large PM–10 monitoring system. PM–10 monitoring began in 1985 and there are currently three SLAMS sites and one NAMS site in the urban area. Sampling frequencies are one sample every six days at two sites and daily sampling at two sites. Data from all the sites have been deemed valid by EPA and submitted by the State of Washington for inclusion in the AIRS system.

A review of the data for calendar years 1992, 1993 and 1994 shows no violations of the annual PM–10 standard in the Spokane PM–10 nonattainment area. During this same three-year period, there were a total of nine reported measurements above the level of the 24-hour NAAQS at the NAMS monitoring site located near downtown Spokane which has historically exceeded the standard with greatest frequency. In calendar year 1992 there were five recorded values above the NAAQS in September and October. In 1993 a total of four values were above the NAAQS (two in March, one in September and one in November). The three other monitoring sites also recorded levels above the 24-hour NAAQS in 1992 and 1993. In calendar year 1994, there were no measurements at any site above the 24-hour NAAQS.

2. Attainment of the PM–10 NAAQS

The Spokane PM–10 nonattainment area does not attain the 24-hour PM–10 NAAQS. Because of the sampling frequencies, the expected exceedance rate for the three-year period, at three of the sampling locations, is in violation of the 24-hour standard.

3. Extension of Attainment Date

EPA is by this action proposing to grant the State's request for a one-year extension of the attainment date, from December 31, 1994 to December 31, 1995, for the Spokane PM–10 nonattainment area.

a. Compliance With Applicable SIP

Based on information available to EPA, EPA believes the State of Washington is in compliance with all requirements and commitments in the applicable implementation plan and statewide SIP requirements that pertain to the Spokane PM–10 nonattainment area. Although the State has submitted its moderate PM–10 nonattainment area plan as a SIP revision, EPA has not yet taken action on that plan. Therefore, the submitted plan is not yet an ''applicable implementation plan'' for the Spokane PM–10 nonattainment area.

b. Air Quality Data

As discussed above, there were no measured levels above the 24-hour NAAQS during calendar year 1994. The annual mean concentration of PM–10 was 38 $\mu g/m^3$ during 1994, well below the standard. Therefore, the Spokane PM–10 nonattainment area meets the extension criteria of no more than one exceedance of the 24-hour NAAQS and an annual mean concentration less than or equal to the standard for the year preceding the extension year.

c. Substantial Implementation of Control Measures

The State of Washington, along with the local air pollution control agency, has developed and implemented several significant control measures on sources within the Spokane PM–10 nonattainment area. The State submitted these control measures to EPA as a SIP revision on November 15, 1991, and in supplemental submissions since that time. These measures consist of a comprehensive residential wood combustion program, including a mandatory woodstove curtailment program; stringent controls on fugitive road dust, including controls on winter road sanding and road paving program; and emission limits on point sources in the nonattainment area. EPA has conducted a preliminary review of these measures and believes that they substantially meet EPA's guidance for RACM, including RACT, for purposes of granting an extension under section 188(d) of the Act.

d. Emission Reduction Progress

On March 24, 1995, the State of Washington submitted to EPA the milestone report required by section 189(c)(2) of the Act to demonstrate annual incremental emission reductions and reasonable further progress in the Spokane area. In that report, a copy of which is available in the docket, the State discusses implementation of the control measures adopted as part of the control strategy in the SIP and the emission reductions that have been achieved as a result of the State's control strategy. EPA believes that the reductions in emissions for the sources demonstrates reasonable further progress in the Spokane nonattainment area.

In summary, for the reasons discussed above, EPA is granting the State's request for a one-year extension of the attainment date for the Spokane PM–10 nonattainment area from December 31, 1994 to December 31, 1995.

C. Wallula, Washington PM–10 Nonattainment Area

The Wallula PM–10 nonattainment area is located in rural south central Washington State.

1. Air Quality Data

The Wallula nonattainment area has one PM–10 monitoring site located on a hill overlooking the small

unincorporated community of Wallula. The SLAMS site was established in 1986. Sampling frequency is one sample every six days. Data from this site has been deemed valid by EPA and submitted by the State of Washington for inclusion in the AIRS system.

A review of the data for calendar years 1992, 1993 and 1994 shows no violations of the annual PM–10 standard at the site. During this same three-year period, there were two reported measurements above the level of the 24-hour NAAQS. In calendar year 1993 there was one level above the NAAQS in May and in 1994 one level was recorded above the NAAQS in June.

2. Attainment of the PM–10 NAAQS

The Wallula PM–10 nonattainment area does not attain the 24-hour PM–10 NAAQS. PM–10 concentrations reported from the SLAMS monitoring station exceeded the level of the NAAQS twice from 1992 to 1994. Because of the sampling frequency, the expected exceedance rate represents a violation of the 24-hour standard.

3. Extension of Attainment Date

EPA is by this action is granting the State's request for a one-year extension of the attainment date, from December 31, 1994 to December 31, 1995, for the Wallula PM–10 nonattainment area.

a. Compliance With Applicable SIP

Based on information available to EPA, EPA believes the State of Washington is in compliance with all requirements and commitments in the applicable implementation plan that pertains to the Wallula PM–10 nonattainment area. Although the State has submitted its moderate PM–10 nonattainment area plan as a SIP revision, EPA has not yet taken action on that plan. Therefore, the submitted plan is not yet an ''applicable implementation plan'' for the Wallula PM–10 nonattainment area.

b. Air Quality Data

As discussed above, there was one measured level above the 24-hour NAAQS during calendar year 1994. The annual mean concentration of PM–10 was 36.4 $\mu g/m^3$ during 1994, well below the standard. Therefore, the Wallula PM–10 nonattainment area meets the extension criteria of no more than one exceedance of the 24-hour NAAQS and an annual mean concentration less than or equal to the standard for the year preceding the extension year.

c. Substantial Implementation of Control Measures

The State of Washington has implemented control measures on sources within the Wallula PM–10 nonattainment area. The State submitted the control measures to EPA as a SIP revision on November 15, 1991, and in supplemental submissions since that time. The major control measure is the federal Food Security Act's provisions requiring development and implementation of conservation plans for participating farms. EPA has conducted a preliminary review of these measures and believes that they substantially meet EPA's guidance for RACM, including RACT, for purposes of granting an extension under section 188(d) of the Act.

d. Emission Reduction Progress

On March 24, 1995, the State of Washington submitted to EPA the milestone report required by section 189(c)(2) of the Act to demonstrate annual incremental emission reductions and reasonable further progress in the Wallula area. In that report, the State discusses implementation of the control measures adopted as part of the control strategy in the SIP and the emission reductions that have been achieved as a result of the State's control strategy. EPA believes that the reductions demonstrate reasonable further progress in the Wallula nonattainment area.

In summary, for the reasons discussed above, EPA proposes to grant the State's request for a one-year extension of the attainment date for the Wallula PM–10 nonattainment area from December 31, 1994 to December 31, 1995.

III. Executive order (EO) 12866

Under E.O. 12866, 58 FR 51735 (October 4, 1993) EPA is required to determine whether regulatory actions are significant and therefore should be subject to the Office of Management and Budget (OMB) review, economic analysis, and the requirements of the Executive Order. The Executive Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may meet at least one of the four criteria identified in section 3(f), including, under paragraph (1), that the rule may ''have an annual effect on the economy of $100 million or more or adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.''

The Agency has determined that the determinations of nonattainment and attainment date extensions granted today would result in none of the effects identified in section 3(f). Under section 188(b)(2), findings of nonattainment and reclassification of nonattainment areas are based upon air quality considerations and must occur by operation of law in light of certain air quality conditions. They do not, in-and-of-themselves, impose any new requirements on any sectors of the economy. In addition, because the statutory requirements are clearly defined with respect to the differently classified areas, and because those requirements are automatically triggered by classifications that, in turn, are triggered by air quality values, the nonattainment determinations and reclassification cannot be said to impose a materially adverse impact on State, local, or tribal governments or communities. Attainment date extensions under section 188(d) of the Clean Air Act do not impose any new requirements on any sectors of the economy; nor do they result in a materially adverse impact on State, local, or tribal governments or communities.

IV. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et. seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Reclassification of nonattainment areas under section 188(b)(2) of the CAA and extensions of attainment dates under 188(d) do not create any new requirements. Therefore, because the federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on small entities.

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must assess whether various actions undertaken in association with proposed or final regulations include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local or tribal governments in the aggregate.

EPA has determined, as discussed earlier in section ''IV. Executive order (EO) 12866'' of this notice, that the finding that is the subject of this final

action of failure to attain and grant of a one-year extension to the Mendenhall Valley, Alaska, and the Wallula and Spokane, Washington, PM–10 nonattainment areas do not impose any federal intergovernment mandate, as defined in section 101 of the Unfunded Mandates Act. A finding that an area has failed to attain and should be granted a one-year extension of the attainment date consists of factual determinations based upon air quality considerations and the area's compliance with certain prior requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector result from this action. This action also will not impose a mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective November 13, 1995 unless, by October 12, 1995, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice that will withdraw the final action. All public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective November 13, 1995.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 13, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2), 42 U.S.C. 7607(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Particulate matter, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: August 8, 1995.

Charles Findley,

Acting Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart C—Alaska

2. Section 52.82 is added to read as follows:

§ 52.82 Extensions.

The Administrator, by authority delegated under section 188(d) of the Clean Air Act, as amended in 1990, hereby extends for one year (until December 31, 1995) the attainment date for the Mendenhall Valley, Alaska, PM–10 nonattainment area.

Subpart WW—Washington

2. Section 52.2472 is added to read as follows:

§ 52.2472 Extensions.

The Administrator, by authority delegated under section 188(d) of the Clean Air Act, as amended in 1990, extends for one year (until December 31, 1995) the attainment date for the Spokane, Washington, PM–10 nonattainment area and the Wallula, Washington, PM–10 nonattainment area.

[FR Doc. 95–22160 Filed 9–11–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Parts 52 and 81

[LA–28–1–7053a, FRL–5292–6]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of Louisiana; Approval of the Maintenance Plan for St. James Parish; Redesignation of St. James Parish to Attainment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On December 15, 1994, the State of Louisiana submitted a revised maintenance plan and request to redesignate the St. James Parish ozone nonattainment area to attainment. This maintenance plan and redesignation request was initially submitted to the EPA on May 25, 1993. Although the EPA deemed this initial submittal complete on September 10, 1993, certain approvability issues existed. The State of Louisiana addressed these approvability issues and has revised its submissions. Under the Clean Air Act (CAA), nonattainment areas may be redesignated to attainment if sufficient data are available to warrant the redesignation and the area meets the other CAA redesignation requirements. In this action, EPA is approving Louisiana's redesignation request because it meets the maintenance plan and redesignation requirements set forth in the CAA, and EPA is approving the 1990 base year emissions inventory.

The approved maintenance plan will become a federally enforceable part of the State Implementation Plan (SIP) for Louisiana.

DATES: This action will become effective on November 13, 1995, unless notice is postmarked by October 12, 1995 that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register** (FR).

ADDRESSES: Comments should be mailed to Thomas H. Diggs, Chief, Air Planning Section (6PD–L), U.S. EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733. Copies of the State's petition and other information relevant to this action are available for inspection during normal hours at the following locations:

U.S. Environmental Protection Agency, Region 6, Air Planning Section (6PD–L), 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Louisiana Department of Environmental Quality, Office of Air Quality, 7290 Bluebonnet Boulevard, Baton Rouge, Louisiana 70810.

Anyone wishing to review this petition at the Regional U.S. EPA office is asked to contact the person below to schedule an appointment 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Mr. Mick Cote, Air Planning Section (6PD–L), U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–7219.

SUPPLEMENTARY INFORMATION:

Background

The CAA, as amended in 1977, required areas that were designated nonattainment based on a failure to meet the ozone National Ambient Air Quality Standard (NAAQS) to develop SIP's with sufficient control measures to expeditiously attain and maintain the standard. St. James Parish, Louisiana, was designated under section 107 of the 1977 CAA as nonattainment with respect to the ozone NAAQS on September 11, 1978 (40 CFR 81.319). In accordance with section 110 of the 1977 CAA, the State of Louisiana submitted an ozone SIP as required by part D on December 10, 1979. EPA fully approved this ozone SIP on October 29, 1981 (46 FR 53412). The most recent revision to the ozone SIP occurred on May 5, 1994, when the EPA approved a SIP revision for the State of Louisiana to correct certain enforceability deficiencies in its volatile organic compound (VOC) rules (59 FR 23164). For purposes of redesignations, the State of Louisiana has an approved ozone SIP for St. James Parish.

On November 15, 1990, the CAA Amendments of 1990 were enacted (Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q). The ozone nonattainment designation for St. James Parish continued by operation of law according to section 107(d)(1)(C)(i) of the CAA, as amended in 1990 (See 56 FR 56694, November 6, 1991). Since the State had not yet collected the required three years of ambient air quality data necessary to petition for redesignation to attainment, this parish was designated as unclassifiable-incomplete data for ozone.

The Louisiana Department of Environmental Quality (LDEQ) more recently has collected ambient monitoring data that show no violations of the ozone NAAQS of .12 parts per million. The State developed a maintenance plan for St. James Parish and solicited public comment. Subsequently, the State of Louisiana submitted a request, through the Governor's office, to redesignate this parish to attainment with respect to the ozone NAAQS. The initial redesignation request for St. James Parish was submitted to the EPA on May 25, 1993. Although this maintenance plan and redesignation request were deemed complete, several approvability issues existed. The State of Louisiana addressed these approvability issues and submitted a revised maintenance plan and redesignation request accordingly. The revised redesignation request for St. James Parish was received on December 15, 1994. This revised redesignation request was accompanied by an ozone maintenance SIP. Please see the technical support document (TSD), located in the official docket, for the detailed air quality monitoring data.

Evaluation Criteria

The 1990 Amendments revised section 107(d)(3)(E) to provide five specific requirements that an area must meet in order to be redesignated from nonattainment to attainment: (1) The area must have attained the applicable NAAQS; (2) the area must meet all applicable requirements under section 110 and part D of the CAA; (3) the area must have a fully approved SIP under section 110(k) of the CAA; (4) the air quality improvement must be permanent and enforceable; and (5) the area must have a fully approved maintenance plan pursuant to section 175A of the CAA. Section 107(d)(3)(D) allows a Governor to initiate the redesignation process for an area to apply for attainment status. Please see EPA's (TSD) for a detailed discussion of these requirements.

(1) Attainment of the NAAQS for Ozone

Attainment of the ozone NAAQS is determined based on the expected number of exceedances in a calendar year. The method for determining attainment of the ozone NAAQS is contained in 40 CFR 50.9 and appendix H to that section. The simplest method by which expected exceedances are calculated is by averaging actual exceedances at each monitoring site over a three year period. An area is in attainment of the standard if this average results in expected exceedances for each monitoring site of 1.0 or less per calendar year. When a valid daily maximum hourly average value is not available for each required monitoring day during the year, the missing days must be accounted for when estimating exceedances for the year. Appendix H provides the formula used to estimate the expected number of exceedances for each year.

The State of Louisiana's request is based on an analysis of quality-assured ozone air quality data which is relevant to both the maintenance plan and to the redesignation request. The data come from the State and Local Air Monitoring Station network. The request is based on ambient air ozone monitoring data collected for more than three consecutive years from January 1, 1989, through December 31, 1993. The data clearly show an expected exceedance rate of less than one for this parish.

In addition to the demonstration discussed above, EPA required completion of air network monitoring requirements set forth in 40 CFR part 58. This included a quality assurance plan revision and a monitoring network review to determine the adequacy of the ozone monitoring network. The LDEQ fulfilled these requirements to complete documentation for the air quality demonstration. The LDEQ has also committed to continue monitoring in St. James Parish in accordance with 40 CFR part 58.

In summary, EPA believes that the data submitted by the LDEQ provides an adequate demonstration that St. James Parish attained the ozone NAAQS. Moreover, the monitoring data continue to show attainment to date.

If the monitoring data records a violation of the ozone NAAQS before the direct final action is effective, the direct final approval of the redesignation will be withdrawn and a proposed disapproval substituted for the direct final approval.

(2) Section 110 Requirements

For purposes of redesignation, to meet the requirement that the SIP contain all applicable requirements under the CAA, EPA has reviewed the SIP to ensure that it contains all measures that were due under the CAA prior to or at the time the State submitted its redesignation request, as set forth in EPA policy. EPA interprets section 107(d)(3)(E)(v) of the CAA to mean that, for a redesignation request to be approved, the State must have met all requirements that applied to the subject area prior to or at the same time as the submission of a complete redesignation request. Requirements of the CAA that come due subsequently continue to be applicable to the area at later dates (see section 175A(c)) and, if redesignation of any of the areas is disapproved, the State remains obligated to fulfill those requirements. These requirements are discussed in the following EPA documents: ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' John Calcagni,

Director, Air Quality Management Division, September 4, 1992, ''State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (CAA) Deadlines,'' John Calcagni, Director, Air Quality Management Division, October 28, 1992, and ''State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) on or after November 15, 1992,'' Michael H. Shapiro, Acting Assistant Administrator, September 17, 1993.

EPA has analyzed the Louisiana SIP and determined that it is consistent with the requirements of amended section 110(a)(2). The SIP contains enforceable emission limitations; requires monitoring, compiling, and analyzing ambient air quality data; requires preconstruction review of new major stationary sources and major modifications to existing ones; provides for adequate funding, staff, and associated resources necessary to implement its requirements; and requires stationary source emissions monitoring and reporting.

(3) Part D Requirements

Before St. James Parish can be redesignated to attainment, the Louisiana SIP must have fulfilled the applicable requirements of part D of the CAA. Under part D, an area's classification indicates the requirements to which it will be subject. Subpart 1 of part D sets forth the basic nonattainment requirements applicable to all nonattainment areas, classified as well as nonclassifiable. Subpart 2 of part D establishes additional requirements for nonattainment areas classified under table 1 of section 181(a)(1). Since St. James Parish is considered nonclassifiable, the State is only required to meet the applicable requirements of subpart 1 of part D—specifically sections 172(c) and 176. As long as EPA did not determine that any of the pertinent section 172(c) requirements were applicable prior to the submission of these redesignation requests in 1993, none of these requirements are applicable for purposes of this redesignation action.

Section 176(c) of the CAA requires States to revise their SIP's to establish criteria and procedures to ensure that Federal actions, before they are taken, conform to the air quality planning goals in the applicable State SIP. The requirement to determine conformity applies to transportation plans, programs and projects developed, funded, or approved under title 23 U.S.C. or the Federal Transit Act (''transportation conformity''), as well as to all other Federal actions (''general conformity'').

Section 176 further provides that the conformity revisions to be submitted by the States must be consistent with Federal conformity regulations that the CAA required EPA to promulgate. Congress provided for the State revisions to be submitted one year after the date for promulgation of final EPA conformity regulations. When that date passed without such promulgation, EPA's General Preamble for the implementation of title I informed the State that its conformity regulations would establish a submittal date (see 57 FR 13498, 13557 (April 16, 1992)). The EPA promulgated final transportation conformity regulations on November 24, 1993 (58 FR 62118) and general conformity regulations on November 30, 1993 (58 FR 63214). These conformity rules require that States adopt both transportation and general conformity provisions in the SIP for areas designated nonattainment or subject to a maintenance plan approved under CAA section 175A.

Pursuant to 40 CFR 51.396 of the transportation conformity rule and 40 CFR 51.851 of the general conformity rule, the State of Louisiana was required to submit a SIP revision containing transportation conformity criteria and procedures consistent with those established in the Federal rule by November 25, 1994. Similarly, Louisiana was required to submit a SIP revision containing general conformity criteria and procedures consistent with those established in the Federal rule by December 1, 1994. Louisiana submitted both its transportation and general conformity rules to EPA on November 10, 1994. As these requirements did not come due until after the original submission date of this redesignation request, these conformity rule submissions need not be approved prior to taking action on this redesignation request.

(4) Fully Approved SIP

The EPA finds that the State of Louisiana has a fully approved SIP for St. James Parish for the purposes of redesignating the parish to attainment for ozone.

(5) Permanent and Enforceable Measures

Under the CAA, EPA approved Louisiana's SIP control strategy for St. James Parish, satisfied that the rules and the emission reductions achieved as a result of those rules were enforceable. Several Federal and Statewide rules are in place which have significantly improved the ambient air quality in this parish. Existing Federal programs, such as the Federal Motor Vehicle Control Program and the Reid Vapor Pressure (RVP) limit of 7.8 pounds per square inch for gasoline, will not be lifted upon redesignation. These programs will counteract emissions growth as the parish experiences economic growth over the life of the maintenance plan.

The State adopted VOC rules such as oil/water separation; degreasing and solvent clean-up processes; surface coating rules for large appliances, furniture, coils, paper, fabric, vinyl, cans, miscellaneous metal parts and products, and factory surface coating of flat wood paneling; solvent-using rules for graphic arts, and miscellaneous industrial source rules such as for cutback asphalt. The applicable reasonably available control technology (RACT) rules will also remain in place in St. James Parish. In addition, the State permits program, the prevention of significant deterioration (PSD) permits program, and the Federal Operating Permits program will help counteract emissions growth.

The EPA finds that the combination of existing EPA-approved SIP and Federal measures ensure the permanence and enforceability of reductions in ambient ozone levels that have allowed the area to attain the NAAQS.

(6) Fully Approved Maintenance Plan Under Section 175A

In today's document, EPA is approving the State's maintenance plan for St. James Parish because EPA finds that the LDEQ's submittal meets the requirements of section 175A. Thus, this parish will have a fully approved maintenance plan in accordance with section 175A as of the effective date of this redesignation. Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the Regional Administrator approves a redesignation to attainment. Eight years after the redesignation, the State must submit a revised maintenance plan which demonstrates that attainment will continue to be maintained for the ten years following the initial ten-year period. To provide for the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, with a schedule for implementation, adequate to assure prompt correction of any air quality problems. Each of the section 175A plan requirements is discussed below.

Demonstration of Maintenance

The requirements for an area to redesignate to attainment are discussed in the memorandum entitled ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' John Calcagni, Director, Air Quality Management Division, September 4, 1992 (Calcagni memo). One aspect of a complete maintenance demonstration discussed in the Calcagni memo is the requirement to develop an emissions inventory from one of the three years during which the area has demonstrated attainment. This inventory should include VOC's, oxides of nitrogen (NO_X), and carbon monoxide (CO) emissions from the area in tons per day measurements.

Attainment Inventory

The LDEQ adopted a comprehensive inventory of VOC, NO_X, and CO emissions from area, stationary, and mobile sources using 1990 as the base year to demonstrate maintenance of the ozone NAAQS. EPA has determined that 1990 is an appropriate year on which to base attainment level emissions because EPA policy allows States to select any one of the three years in the attainment period as the attainment year inventory. The State's submittal contains the detailed inventory data and summary by source category.

The LDEQ provided the stationary source estimates for each company meeting the emissions criteria by requiring the submission of complete emissions inventory questionnaires which had been designed to obtain site-specific data. The LDEQ generated area source emissions for each source category based on EPA's ''Procedures for the Preparation of Emissions Inventories for Precursors of Carbon Monoxide and Ozone, Volume I'', and the EPA document entitled ''Compilation of Air Pollutant Emission Factors.'' The nonroad mobile source inventory was developed using methodology recommended in EPA's ''Procedures for Emission Inventory Preparation. Volume IV: Mobile Sources.'' Additional data was provided with reference to an EPA-sponsored study entitled ''Nonroad Engine Emission Inventories for CO and Ozone Nonattainment Boundaries.'' Onroad emissions of VOC, NO_X, and CO were calculated on a county-wide basis using EPA's MOBILE5a computer model. Growth projections were derived from the United States Department of Commerce, Bureau of Economic Analysis statistics. These projections represent growth for Louisiana for each emission source category.

The following table is a summary of the revised average peak ozone season weekday VOC and NO_X emissions for the major anthropogenic source categories for the 1990 attainment year inventory.

ST. JAMES PARISH

[Tons per day]

	1990	1995	2000	2005
Point Source CO	2.39	2.37	2.37	2.34
Point Source VOC	8.44	8.42	8.49	8.32
Point Source NO_X	40.21	39.88	39.95	39.51
Area Source CO	.25	.25	.26	.26
Area Source VOC	1.19	1.19	1.22	1.22
Area Source NO_X	.10	.10	.10	.10
Nonroad Source CO	6.54	6.56	6.68	6.70
Nonroad Source VOC	2.09	1.51	1.54	1.55
Nonroad Source NO_X	3.83	3.84	3.91	3.92
Onroad Source CO	17.30	13.83	11.13	9.81
Onroad Source VOC	2.09	1.58	1.41	1.35
Onroad Source NO_X	3.42	3.06	2.81	2.71
Total CO	26.48	23.01	20.44	19.11
Total VOC	13.81	12.70	12.66	12.44
Total NO_X	47.56	46.88	46.77	46.24

The attainment inventory submitted by the LDEQ for St. James Parish meets the redesignation requirements as discussed in the Calcagni memo. Therefore, the EPA is today approving the emissions inventory component of the maintenance plan for St. James Parish.

Continued Attainment

Continued attainment of the ozone NAAQS in St. James Parish will depend, in part, on the Federal and State control measures discussed previously. However, the ambient air monitoring site will remain active at its present location during the maintenance period. These data will be quality assured and submitted to the Aerometric Information and Retrieval System (AIRS) on a monthly basis. Certain monitored ozone levels will provide the basis for triggering measures contained in the contingency plan. Additionally, as discussed above, during year 8 of the maintenance period, the LDEQ is required to submit a revised plan to provide for maintenance of the ozone standard in this parish for the next ten years.

Contingency Plan

Section 175A of the CAA requires that a maintenance plan include contingency provisions, as necessary, to promptly correct any violation of the NAAQS that occurs after redesignation of the area to attainment. The contingency plan should clearly identify the measures to be adopted, a schedule and procedure for adoption and implementation, and a specific time limit for action by the State. The State should also identify specific triggers which will be used to determine when the measures need to be implemented.

The LDEQ has selected VOC offsets and new Control Techniques Guidelines (CTG) or Alternative Control Technology (ACT) rule implementation as its contingency measures. At any time during the maintenance period, if St. James Parish records a second exceedance of the ozone NAAQS within any consecutive three-year period (a level below the NAAQS), the LDEQ will promulgate a rule change to implement

VOC offsets in this parish. This rule will be submitted to EPA within 9 months of the second exceedance. Implementation will occur if a third exceedance of the ozone standard is recorded during any consecutive 3 year period.

Should St. James Parish experience a third exceedance of the ozone standard during any consecutive 3 year period, the LDEQ will promulgate a rule revision to place new CTG and ACT VOC rules (where applicable) in the parish. These rules will be submitted to the EPA within 9 months of the third exceedance. Implementation will occur if a violation of the ozone standard is recorded during any consecutive 3 year period. These contingency measures and schedules for implementation satisfy the requirements of section 175A(d).

Final Action

The EPA has evaluated the State's redesignation request for St. James Parish, Louisiana, for consistency with the CAA, EPA regulations, and EPA policy. The EPA believes that the redesignation request and monitoring data demonstrate that this parish has attained the ozone standard. In addition, the EPA has determined that the redesignation request meets the requirements and policy set forth in the General Preamble and policy memorandum discussed in this notice for area redesignations, and today is approving Louisiana's redesignation request for St. James Parish.

The EPA is publishing this action without prior proposal because the EPA views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective on November 13, 1995, unless adverse or critical comments are received by October 12, 1995. If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received on this action, the public is advised that this action will be effective November 13, 1995.

The EPA has reviewed this redesignation request for conformance with the provisions of the CAA and has determined that this action conforms to those requirements.

Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, the EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, under 5 U.S.C. 605(b), the EPA may certify that the rule will not have a significant impact on a substantial number of small entities (see 46 FR 8709). Small entities include small businesses, small not-for-profit enterprises, and governmental entities with jurisdiction over populations of less than 50,000.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 13, 1995. Filing a petition for reconsideration of this final rule by the Regional Administrator does not affect the finality of this rule for purposes of judicial review; nor does it extend the time within which a petition for judicial review may be filed, or postpone the effectiveness of this rule. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

Nothing in this action shall be construed as permitting, allowing, or establishing a precedent for any future request for a revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on small entities. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The CAA forbids EPA from basing its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. section 7410(a)(2). The Office of Management and Budget has exempted this action from review under Executive Order 12866.

Unfunded Mandates

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this SIP or plan revision approved in this action, the State and any affected local or tribal governments have elected to adopt the program provided for under section 175A of the Clean Air Act. The rules and commitments approved in this action may bind State, local, and tribal governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules and commitments being approved by this action will impose or lead to the imposition of any mandate upon the State, local, or tribal governments, either as the owner or operator of a source or as a regulator, or would impose or lead to the imposition of any mandate upon the private sector, EPA's action will impose no new requirements; such sources are already subject to these requirements under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. Therefore, EPA has determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

Table 3 SIP Actions Exempt From OMB Review

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

List of Subjects in 40 CFR Parts 52 and 81

Environmental protection, Air pollution control, Area designations, Hydrocarbons, Incorporation by reference, Intergovernmental regulations, National Parks, Reporting and recordkeeping, Ozone, Volatile organic compounds, Wilderness areas.

Dated: August 24, 1995.

A. Stanley Meiburg,

Acting Regional Administrator (6RA).

40 CFR parts 52 and 81 are amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart T—Louisiana

2. Section 52.975 is amended by designating the existing text as paragraph (a) and by adding paragraph (b) to read as follows:

§ 52.975 Redesignations and maintenance plans: ozone.

* * * * *

(b) Approval—The Louisiana Department of Environmental Quality (LDEQ) submitted a redesignation request and maintenance plan for St. James Parish on May 25, 1993. The EPA deemed this request complete on September 10, 1993. Several approvability issues existed, however. The LDEQ addressed these approvability issues in a supplemental ozone redesignation request and revised maintenance plan. This supplemental submittal was received for St. James Parish on December 15, 1994. The redesignation request and maintenance plan meet the redesignation requirements in section 107(d)(3)(E) of the Act as amended in 1990. The redesignation meets the Federal requirements of section 182(a)(1) of the Clean Air Act as a revision to the Louisiana ozone State Implementation Plan for this parish. The EPA therefore approved the request for redesignation to attainment with respect to ozone for St. James Parish on November 13, 1995.

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

2. In § 81.319, the ozone table is amended by revising the entry for St. James Parish to read as follows:

§ 81.319 Louisiana.

* * * * *

LOUISIANA—OZONE

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
* * *	*	*	*	*
St. James Parish	November 13, 1995	Attainment.		
* * *	*	*	*	*

[1] This date is November 15, 1990, unless otherwise noted.

* * * * *

[FR Doc. 95–22162 Filed 9–11–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[ME–24–1–6911a; A–1–FRL–5284–8]

Approval and Promulgation of Air Quality Implementation Plans; Maine; Title V, Section 507, Small Business Stationary Source Technical and Environmental Compliance Assistance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Maine for the purpose of establishing a Small Business Stationary Source Technical and Environmental Compliance Assistance Program (PROGRAM). This SIP was submitted by the State to satisfy the Federal mandate to ensure that small businesses have access to the technical assistance and regulatory information necessary to comply with the Clean Air Act as amended in 1990 (CAA).

DATES: This final rule is effective November 13, 1995, unless notice is received by October 12, 1995 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to Susan Studlien, Acting Director, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Boston, MA 02203. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, One Congress Street, 10th floor, Boston, MA; Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, S.W., (LE–131), Washington, D.C. 20460; and Department of Environmental Protection, 71 Hospital Street, Augusta, ME 04333.

FOR FURTHER INFORMATION CONTACT: Emanuel Souza, Jr., (617) 565–3248.

SUPPLEMENTARY INFORMATION: Implementation of the provisions of the CAA, as amended in 1990, will require regulation of many small businesses so that areas may attain and maintain the national ambient air quality standards (NAAQS) and reduce the emission of air toxics. In anticipation of the impact of these requirements on small businesses, the CAA requires that States adopt a Small Business Stationary Source Technical and Environmental Compliance Assistance Program (PROGRAM), and submit this PROGRAM as a revision to the Federally approved SIP. In addition, the CAA directs EPA to oversee these small business assistance programs and report to Congress on their implementation. The requirements for establishing a PROGRAM are set out in Section 507 of Title V of the CAA. In February 1992, EPA issued Guidelines for the Implementation of Section 507 of the 1990 Clean Air Act Amendments, in order to delineate the Federal and State roles in meeting the new statutory provisions and as a tool to provide further guidance to the States on submitting acceptable SIP revisions.

In order to gain full approval, the State submittal must provide for each of the following PROGRAM elements: (1) the establishment of a Small Business Assistance Program (SBAP) to provide technical and compliance assistance to small businesses; (2) the establishment

of a State Small Business Ombudsman to represent the interests of small businesses in the regulatory process; and (3) the creation of a Compliance Advisory Panel (CAP) to determine and report on the overall effectiveness of the SBAP.

II. Analysis

Maine has met all of the requirements of section 507 by submitting a SIP revision that implements all required PROGRAM elements.

1. Small Business Assistance Program

Section 507(a) sets forth six requirements [1] that the State must meet to have an approvable SBAP. The first requirement is to establish adequate mechanisms for developing, collecting and coordinating information concerning compliance methods and technologies for small business stationary sources, and programs to encourage lawful cooperation among such sources and other persons to further compliance with the Act.

The SBAP has met this requirement by acting as a clearing house for developing, compiling and disseminating technical information for small businesses. Mechanisms include networking and obtaining information from various agencies and departments within the State, EPA and business sectors. The program will provide and prepare industry guidelines for small businesses. The State has also established a toll-free phone number to help answer small business questions.

The second requirement is to establish adequate mechanisms for assisting small business stationary sources with pollution prevention and accidental release detection and prevention, including providing information concerning alternative technologies, process changes, products and methods of operation that help reduce air pollution.

The State has met this requirement by providing assistance to small businesses by responding to telephone and written requests. Additionally, the state will sponsor conferences, workshops, etc. to disseminate information. Maine's small business assistance program is placed in the State's existing Office of Pollution Prevention. Therefore, the SBAP is built on an already established program.

The third requirement is to develop a compliance and technical assistance program for small business stationary sources which assists small businesses in determining applicable requirements and in receiving permits under the Act in a timely and efficient manner.

The State's SBAP will be the responsibility of the small business ombudsman and the staff within the Office of Pollution prevention. The implementation of the program will also involve various functional units within the Department of Environmental Protection. The SBAP will assist air emission sources by providing sources with assistance in identifying applicable rules; determining the need for a permit; explaining permitting procedures; providing the necessary forms and applications and assisting them in preparing the documents; providing sources with information on the Small Business Assistance Program; assisting them by identifying compliance assistance; and referring small businesses with specialized problems or concerns to the Ombudsman.

The fourth requirement is to develop adequate mechanisms to assure that small business stationary sources receive notice of their rights under the Act in such manner and form as to assure reasonably adequate time for such sources to evaluate compliance methods and any relevant or applicable proposed or final regulation or standards issued under the Act.

The State has met this requirement by listing various mechanisms in the SIP revision which will be utilized while implementing the program. These mechanisms include, among others, assistance in identifying applicable rules, explaining relevant issues, providing information and notifying small businesses of their rights and obligations.

The fifth requirement is to develop adequate mechanisms for informing small business stationary sources of their obligations under the Act, including mechanisms for referring such sources to qualified auditors or, at the option of the State, for providing audits of the operations of such sources to determine compliance with the Act.

The State will meet this requirement by preparing brochures outlining the rights and obligations under the CAA and the small business assistance program. This effort will be further supplemented by the staff's development of compliance and permitting workshops. The audit program will be funded primarily by the Department with 25% of the cost of the audit coming from the source. The State will offer two types of audit services. The Department is also exploring other possibilities of establishing a more effective and efficient audit program.

The sixth requirement is to develop procedures for consideration of requests from small business stationary sources for modification of (A) any work practice or technological method of compliance, or (B) the schedule of milestones for implementing such work practice or method of compliance preceding any applicable compliance date, based on the technological and financial capability of any such small business stationary source.

The SIP revision states that regulations for consideration of work practices for technological methods of compliance exist in Maine's regulations governing the Title V Operating Permit Program. All requests for modifications will be considered according to the regulations set forth in Title V whether or not that source is subject to Maine's Title V Permit program. The regulations include: (1) procedures for receiving requests from small businesses to modify the provisions of state adopted regulations; (2) format of such requests; (3) procedures for how requests shall be reviewed and acted upon; and (4) requirements to ensure that no such modification may be granted unless it is in compliance with the applicable requirements of the CAA, applicable SIP or any Federal regulation.

2. Ombudsman

Section 507(a)(3) requires the designation of a State office to serve as the Ombudsman for small business stationary sources. The State has met this requirement by placing the Ombudsman in the existing Office of the Pollution Prevention. A specific list of Ombudsman duties are listed in the SIP revision. Maine's legislation legally authorizes the Ombudsman to carry out the role and functions of the federally mandated position by specifically addressing the requirements in section 507.

3. Compliance Advisory Panel

Section 507(e) requires the State to establish a Compliance Advisory Panel that must include two members selected by the Governor who are not owners or representatives of owners of small businesses; four members selected by the State legislature who are owners, or represent owners, of small businesses; and one member selected by the head of the agency in charge of the Air Pollution Permit Program. The State has met this requirement by incorporating the compliance advisory panel into the existing Pollution Prevention Advisory Committee. Since the compliance advisory panel is being integrated into an already established panel, the State has revised the make-up of the formal Pollution Prevention Advisory committee to meet the requirements of

[1] A seventh requirement of Section 507(a), establishment of an Ombudsman office, is discussed in the next section.

section 507(e). The committee will be increased to 16 voting members. Selection of the panel members is consistent with the CAA requirements and the additional members of the panel do not change the overall makeup of the panel as required in section 507(e).

In addition to establishing the membership of the CAP, the State PROGRAM delineates four responsibilities of the Panel: (1) to render advisory opinions concerning the effectiveness of the SBAP and the difficulties encountered; (2) to periodically report to EPA concerning the SBAP's adherence to the principles of the Paperwork Reduction Act, the Equal Access to Justice Act, and the Regulatory Flexibility Act;[2] (3) to review and assure that information for small business stationary sources is easily understandable to the layperson; and (4) the Ombudsman may serve as the Secretariat for the development and dissemination of panel reports and advisory opinions.

4. Eligibility

Section 507(c)(1) of the CAA defines the term ''small business stationary source'' as a stationary source that:

(A) Is owned or operated by a person who employs 100 or fewer individuals,

(B) Is a small business concern as defined in the Small Business Act;

(C) Is not a major stationary source;

(D) Does not emit 50 tons per year (tpy) or more of any regulated pollutant; and

(E) Emits less than 75 tpy of all regulated pollutants.

The SIP revision's eligibility requirements for the PROGRAM is consistent with the CAA. Additionally, the SIP revision says that it will be the general policy of the Department of Environmental Protection to assist all business in meeting the requirements of the CAA. However, wherever resources become a limiting factor in providing such assistance, the Department will give priority to businesses which meet the definition of small business stationary source under section 507(c)(1) of the CAA.

Final Action

In this action, EPA is approving the SIP revision implementing each of the required PROGRAM elements required by section 507 of the CAA. EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action removes the January 15, 1993 finding of failure to make a submittal for the Small Business Assistance Program. This action will be effective November 13, 1995 unless adverse or critical comments are received by October 12, 1995.

If the EPA receives such comments, this action will be withdrawn before the effective date by simultaneously publishing a subsequent notice that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on November 13, 1995.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. §§ 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993, memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. A future document will inform the general public of these tables. The Office of Management and Budget exempted this action under Executive Order 12866.

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Section 507 of the Clean Air Act. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. The rules being approved by this action will impose no new requirements because all affected sources are already subject to these requirements under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

By today's action, EPA is approving a state program created for the purpose of assisting small business stationary sources in complying with existing statutory and regulatory requirements. The program being approved does not impose any new regulatory burden on small business stationary sources; it is a program under which small business stationary sources may elect to take advantage of assistance provided by the State. Therefore, because EPA's approval of this program does not impose any new regulatory requirements on small businesses, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410 (a)(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 13, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not

[2] Section 507(e)(1)(B) requires the CAP to report on the *compliance* of the SBAP with these three Federal statutes. However, since State agencies are not required to comply with them, EPA believes that the State PROGRAM must merely require the CAP to report on whether the SBAP is adhering to the general principles of these Federal statutes.

postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Small business assistance program.

Note: Incorporation by reference of the State Implementation Plan for the State of Maine was approved by the Director of the Federal Register on July 1, 1982.

Dated: April 24, 1995.

John P. DeVillars,

Regional Administrator, Region I.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart U—Maine

2. Section 52.1020 is amended by adding paragraph (c)(38) to read as follows:

§ 52.1020 Identification of plan.

* * * * *

(c) * * *

(38) Revisions to the State Implementation Plan establishing a Small Business Stationary Source Technical and Environmental Compliance Assistance Program were submitted by the Maine Department of Environmental Protection on July 7, and August 16, 1994.

(i) Incorporation by reference.

(A) Letter from the Maine Department of Environmental Protection dated July 7, 1994 submitting a revision to the Maine State Implementation Plan.

(B) Revisions to the State Implementation Plan for the Small Business Stationary Source Technical and Environmental Compliance Assistance Program dated July 12, 1994 and effective on May 11, 1994.

(C) Letter from the Maine Department of Environmental Protection dated August 16, 1994 submitting a corrected page to the July 12, 1994 SIP revision.

[FR Doc. 95–22152 Filed 9–11–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[NH17–01–7150a; A–1–FRL–5281–8]

Approval and Promulgation of Air Quality Implementation Plans; New Hampshire; Extension of the Date To Meet Conditions for the Inspection and Maintenance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of New Hampshire. This revision establishes and allows for extension of the date for the State of New Hampshire to meet the conditions delineated in the **Federal Register** notice of October 12, 1994 (59 FR 51514) from July 29, 1995, until November 14, 1995. New Hampshire must meet these conditions before the motor vehicle inspection and maintenance program can be approved. The intended effect of this action is to approve a revision to the date for submission of required conditions in accordance with Section 110(k)(4) of the Clean Air Act.

DATES: This final rule is effective November 13, 1995, unless notice is received by October 12, 1995 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to Susan Studlien, Acting Director, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Boston, MA 02203. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment, at the Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, One Congress Street, 10th floor, Boston, MA; Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street SW. (LE–131), Washington, D.C., 20460; and the Air Resources Division, Department of Environmental Services, 64 North Main Street, Caller Box 2033, Concord, NH 03302–2033.

FOR FURTHER INFORMATION CONTACT: Peter Hagerty, (617) 565–3224.

SUPPLEMENTARY INFORMATION: On June 14, 1995, the State of New Hampshire submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consists of a request to extend the date for submission of a SIP revision which meets the requirements of the three conditions specified for full approval of the New Hampshire motor vehicle inspection and maintenance program in the **Federal Register** of October 12, 1994, (59 FR 51514). New Hampshire requested an extension from July 29, 1995, to November 14, 1995.

Summary of SIP Revision

On June 14, 1995, the State of New Hampshire submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consists of a request for extension of the date for submission of a SIP revision which meets the requirements of the three conditions specified in the **Federal Register** notice of October 12, 1994, from July 29, 1995, to November 14, 1995. New Hampshire must meet these conditions before the motor vehicle inspection and maintenance program can be approved. This is consistent with the requirements of Section 110 (k)(4) of the Clean Air Act which allows states up to one year to comply with conditions based on commitments by a state to adopt enforceable measures to meet SIP requirements. In New Hampshire's case these conditions call for (1) imposition of a more severe penalty for first time inspection offenses, (2) adoption of on-road testing standards, and (3) limiting the use of compliance via diagnostic inspection to those vehicles for which it is allowed under the EPA's I/M rules. November 14, 1995, is one year from the effective date of the New Hampshire conditional approval notice and is within the time allowed under section 110(f)(4) to meet SIP conditions.

The letter requesting this extension was not the subject of a public hearing. There is now insufficient time for New Hampshire to hold public hearings on its recent request for an extension of time to meet the conditions of the I/M SIP approval. Although such hearings are still required, in this case, EPA believes it is not in the public interest to demand that they occur prior to taking action on this revision and thus require disapproval of New Hampshire's I/M SIP. We note that New Hampshire held hearings on the submitted I/M program and provided the public an opportunity to comment on whether or not the submittal complied with federal statutory and regulatory requirements . Also, during EPA's approval process, the public had an opportunity to comment on the proposed conditional approval and address the State's commitments to correct identified deficiencies. According, while the State remains obligated to hold hearings on its commitments to adopt corrective measures, it merely is delaying such hearings for a *de minimus* period. EPA

believes New Hampshire will hold hearings on its commitments in conjunction with the hearings on the substantive corrective measures themselves.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective November 13, 1995 unless adverse or critical comments are received by October 12, 1995.

If the EPA receives such comments, this action will be withdrawn before the effective date by simultaneously publishing a subsequent notice that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on November 13, 1995.

Final Action

EPA is approving an extension of the date for the State of New Hampshire to meet the conditions delineated in the October 12, 1995 **Federal Register** from July 29, 1995, until November 14, 1995.

Under the Regulatory Flexibility Act, 5 U.S.C. § 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. §§ 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Section 110 of the Clean Air Act. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being approved by this action will impose no new requirements, such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993, memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. A future document will inform the general public of these tables.

The Office of Management and Budget (OMB) has exempted this action from review under Executive Order 12866.

Conditional approvals of SIP submittals under section 110 and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410 (a)(2).

If the conditional approval is converted to a disapproval under section 110(k), based on the State's failure to meet the commitment, it will not affect any existing state requirements applicable to small entities. Federal disapproval of the state submittal does not affect its state-enforceability. Moreover, EPA's disapproval of the submittal does not impose a new federal requirement. Therefore, EPA certifies that such disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing state requirements nor does it substitute a new federal requirement.

On January 6, 1989, (OMB) waived Table 2 and Table 3 revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 for a period of two years. EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State implementation plan. Each request for revision to the State implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 13, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Nitrogen dioxide, Ozone.

Note: Incorporation by reference of the State Implementation Plan for the State of New Hampshire was approved by the Director of the Federal Register on July 1, 1982.

Dated: July 27, 1995.

John P. DeVillars,

Regional Administrator, EPA—New England.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart EE—New Hampshire

2. Section 52.1519 is amended by adding paragraph (c)(3) to read as follows:

§ 52.1519 Identification of plan.

* * * * * *

(c) * * *

(3) Revision to the State Implementation Plan submitted by the New Hampshire Air Resources Division on June 14, 1995.

(i) Incorporation by reference.

(A) Letter from the New Hampshire Air Resources Division dated June 14, 1995, submitting a revision to the New Hampshire State Implementation Plan.

[FR Doc. 95–22165 Filed 9–11–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[TN131–1–6794a; TN136–1–6795a; TN137–1–6796a; FRL–5291–1]

Approval and Promulgation of Air Quality Implementation Plans: Tennessee; Basic Motor Vehicle Inspection and Maintenance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; clarification.

SUMMARY: EPA is correcting minor errors in the amendments to the regulations which appeared in the **Federal Register** on July 28, 1995 (60 FR 38694). This action approved nonregulatory provisions for the implementation of a basic I/M program in Rutherford, Sumner, Williamson, and Wilson Counties which are part of the Nashville, Tennessee, ozone nonattainment area.

EFFECTIVE DATE: September 26, 1995.

FOR FURTHER INFORMATION CONTACT: For information concerning this document, please contact Richard A. Schutt, Air Programs Branch, U.S. Environmental Protection Agency Region 4, 345 Courtland Street NE., Atlanta, GA 30365, (404) 347–3555 extension 4206.

SUPPLEMENTARY INFORMATION: In the July 28, 1995 (60 FR 38694), final rule, EPA approved nonregulatory provisions for the implementation of a basic I/M program in Rutherford, Sumner, Williamson, and Wilson Counties in Tennessee in § 52.2235. This section had been added to the CFR in a direct final rule published by EPA on June 22, 1995 (60 FR 32469). This rule was withdrawn on August 7, 1995 (60 FR 40101), after comments were received on the direct final rule, thereby removing § 52.2235 from the CFR. On August 8, 1995 (60 FR 40292), EPA added § 52.2235 back into the CFR. Today EPA is adding § 52.2235 paragraph (b) back into the CFR.

Dated: August 22, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

Part 52 of chapter I, title 40, *Code of Federal Regulations,* is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

2. Section 52.2235 is amended by adding paragraph (b) to read as follows:

§ 52.2235 Control Strategy for Ozone.

* * * * *

(b) Nonregulatory provisions for the implementation of a basic I/M program in Rutherford, Sumner, Williamson, and Wilson Counties, submitted on July 13, 1994, were approved by EPA on September 26, 1995.

[FR Doc. 95–22164 Filed 9–11–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[WY2–1–7126; FRL–5279–5]

Approval and Promulgation of State Implementation Plans; Wyoming; Revision to Section 3 Particulates

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In this action, EPA is approving a revision of the Wyoming State Implementation Plan (SIP) submitted by the Governor of Wyoming on September 6, 1988. Specifically, a revision was made to the definition of ''ambient air'' in Section 3, Particulates, of the Wyoming Air Quality Standards and Regulations (WAQSR). The action makes the revised definition part of the Federally approved SIP.

EFFECTIVE DATE: This final rule is effective on October 12, 1995.

ADDRESSES: Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations: Environmental Protection Agency, Region VIII, Air Programs Branch, 999 18th Street, Denver, Colorado 80202–2466; the Air Quality Division, Wyoming Department of Environmental Quality, Herschler Building, 4th Floor, 122 West 25th Street, Cheyenne, Wyoming 82002; and the Air and Radiation Docket and Information Center, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Vicki Stamper, Environmental Protection Agency, Region VIII, Air Programs Branch, 999 18th Street, Suite 500, Denver, Colorado 80202–2466, (303) 293–1765.

SUPPLEMENTARY INFORMATION:

I. Overview

On August 26, 1992, EPA proposed to approve a revision to Section 3, Particulates, of the WAQSR, which was submitted for approval in the SIP on September 6, 1988. The revision to Section 3, which added subsection (d), defined ''ambient air'' for surface coal mines located in Wyoming's Powder River Basin (PRB). The details of the original proposed rule can be found at 57 FR 38641–38650.

After publication of the original proposed action, EPA reevaluated the need to conduct the 30-year ''life-of-mine'' modeling as outlined in the proposed action. As a result, a Memorandum of Agreement (MOA) was written between Dennis Hemmer, Director of the Wyoming Department of Environmental Quality (DEQ) and Patricia D. Hull, Director of the Air, Radiation and Toxics Division in EPA Region VIII, describing procedures to be followed by the State of Wyoming and EPA in protecting the PM_{10} National Ambient Air Quality Standards (NAAQS) in the Powder River Basin. The approach outlined in the MOA is based upon continued ambient air quality monitoring, rather than implementation of the 30-year life-of-mine modeling study. A detailed discussion of the MOA is provided below. Since EPA changed the basis for approving the revisions to the State's definition of ambient air, EPA re-proposed approval of these revisions on June 23, 1994 (see 59 FR 32395–32397).

II. Memorandum of Agreement

A. Compliance

The signed MOA between EPA and DEQ was submitted to the DEQ on January 24, 1994. A review of the PM_{10} ambient monitoring data from the Powder River Basin, as well as the actions by the DEQ and the Wyoming coal companies to maintain an adequate ambient monitoring network, support EPA's view that these actions have proven successful in maintaining the PM_{10} NAAQS in the region. Other factors that were taken into account include: (1) The fact that the DEQ included in each PRB mining permit explicit requirements to implement best

available work practices (BAWP); (2) that the DEQ is using necessary enforcement to ensure that BAWP are being and will continue to be implemented; and (3) that the probability of future PM_{10} NAAQS violations in the area is small.

For these reasons, EPA believes it is appropriate to continue ambient monitoring in place of a 30-year life-of-mine study, provided there are no violations of the PM_{10} NAAQS. The ambient monitoring network submitted to EPA in June 1992, remains in effect. If a PM_{10} exceedance is monitored, then one of the following two procedures would become effective:

1. In the event of an exceedance of the PM_{10} NAAQS or Prevention of Significant Deterioration (PSD) increments in the Powder River Basin, the State must expeditiously use all necessary compliance tools, including enforcement of BAWP requirements in the State permits, to eliminate the likelihood of future exceedances of the PM_{10} NAAQS or PSD increments caused by the contributing source(s).

2. If, in the opinion of EPA, the State does not initiate timely and appropriate action to address these exceedances, or if timely State action does not effectively resolve the issue of exceedances (i.e., if a violation of the PM_{10} NAAQS occurs following the timely and successful completion of any corrective action required by the State), EPA will reevaluate the need for the State to implement a 30-year life-of-mine study.

B. Conditions Agreed to in the MOA by the State of Wyoming

By signing the MOA, the State of Wyoming agreed to:

1. Conduct ambient air monitoring, including overseeing the mines' ambient monitoring networks, entering the data into the Aerometric Information and Retrieval System (AIRS) database, ensuring attainment of the primary and secondary NAAQS for PM_{10} based upon 40 CFR 50.6, requiring the minimum frequency of sampling for PM_{10} based on 40 CFR 58.13, and basing violations upon the calculation in 40 CFR, part 50, appendix K.

2. Provide EPA with a summary of BAWP for each mine, verification that the mines are employing BAWP, and a copy of the Wyoming State regulation which provides the State with the authority to enforce BAWP.

On December 2, 1993 the State of Wyoming DEQ submitted copies of the regulations requested: the authority to require and enforce BAWP through State regulation is contained in Section 35–11–801(a) of the Wyoming Statutes Ann. (W.S.A.), and Section 21(c)(v) of the WAQSR addresses Best Available Control Technology measures for mining operations.

3. Provide EPA with a written opinion from the State's Attorney General that the State has the authority to take enforcement action against mines based upon *violations* of the PM_{10} NAAQS.

A letter from the Wyoming Attorney General's office set forth the enforcement authority of the State of Wyoming, as required by the MOA. The letter referred to the general enforcement provision of Section 35–11–201, W.S.A., and to Section 3(a) of the WAQSR, which establishes the ambient standards for particulate matter and includes the calculation used for demonstration of attainment from 40 CFR part 50, appendix K. The submittal also included a reference to Section 35–11–701, W.S.A., which allows the Director of the DEQ to issue a Notice of Violation; a reference to Section 35–11–901(a), W.S.A., which provides for civil penalties and injunctive relief against ''any person who violates * * * any regulation [or] standard;'' and a reference to Section 35–11–901(j), W.S.A., which discusses criminal penalties.

C. PSD Increments

The issue of particulate matter increment consumption was temporarily resolved by the establishment of a new Powder River Basin section 107 area. (See 58 FR 4348, January 14, 1993.) This designation effectively ''untriggered'' the minor source baseline date in the Powder River Basin particulate matter attainment area and, thus, emissions from coal mines and other minor sources were no longer consuming particulate matter increment.

Since that time, a complete PSD permit application was received for the Kennecott/Puron facility in the PRB, which would effectively trigger the minor source baseline date in the PRB. However, the State requested on December 19, 1994 that the impact area of this PSD source be designated as a separate section 107 area so that the minor source baseline date would only be triggered in the 1 $\mu g/m^3$ impact area of the Kennecott/Puron facility. Such a request is allowed under the Federal PSD rules as long as the area to be excluded from the Powder River Basin particulate matter attainment area encompasses the entire 1 $\mu g/m^3$ ambient impact of the Kennecott/Puron facility. In a separate rule in this **Federal Register**, EPA is approving the State's December 19, 1994 request and is redesignating the Powder River Basin particulate matter attainment area to exclude the Kennecott/Puron PSD Baseline area, which is being designated as a separate particulate matter attainment area. Thus, EPA's action will ''untrigger'' the particulate matter minor source baseline date in the remaining Powder River Basin particulate matter attainment area. Refer to that direct final rule elsewhere in this **Federal Register** for further details.

Dispersion modeling of coal mines for tracking PSD increment may be required at some time in the future, if a new or modified major stationary source again triggers the minor source baseline date in the Powder River Basin or by January 1, 2001 (as currently provided in the State's definition of ''minor source baseline date''), whichever occurs first.

Final Action

As discussed above, EPA re-proposed action on the revision to the definition of ''ambient air'' in Section 3(d) of the WAQSR on June 23, 1994, and no comments were received on that proposed SIP approval. Therefore, EPA is finalizing its approval of Section 3(d) of the WAQSR and is incorporating the revised definition into the approved SIP for Wyoming.

The Agency has reviewed this request for revision of the Federally-approved SIP for conformance with the provisions of the Amendments enacted on November 15, 1990, and has determined that this action conforms with those requirements.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to a SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600, *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Approvals of SIP submittals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it

does not have a significant impact on small entities affected. Moreover, due to the nature of the Federal-state relationship under the Clean Air Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (1976); 42 U.S.C. 7410(a)(2).

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Section 110 of the Clean Air Act. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. The rules being approved by this action will impose no new requirements; such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 13, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review must be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernment relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: August 10, 1995.

Jack W. McGraw,

Acting Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart ZZ—Wyoming

2. Section 52.2620 is amended by adding paragraph (c)(22) to read as follows:

§ 52.2620 Identification of plan.

* * * * *

(c) * * *

(22) On September 6, 1988, the Governor of Wyoming submitted revisions to Section 3 of the Wyoming Air Quality Standards and Regulations, adding subsection (d) which defines ''ambient air'' for surface coal mines located in Wyoming's Powder River Basin.

(i) Incorporation by reference.

(A) Revisions to Section 3(d) of the Wyoming Air Quality Standards and Regulations, effective June 5, 1987.

(ii) Additional material.

(A) Memorandum of Agreement signed on December 22, 1993 by Dennis Hemmer, Director, Department of Environmental Quality, State of Wyoming, and on January 24, 1994 by Patricia D. Hull, Director, Air, Radiation and Toxics Division, EPA Region VIII.

[FR Doc. 95–22149 Filed 9–11–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 55

[FRL–5294–2]

Outer Continental Shelf Air Regulations Consistency Update for California

AGENCY: Environmental Protection Agency (''EPA'').

ACTION: Final rule—consistency update.

SUMMARY: EPA is finalizing the updates of the Outer Continental Shelf (''OCS'') Air Regulations. The requirements applying to OCS sources located within 25 miles of states' seaward boundaries must be updated periodically to remain consistent with the requirements of the corresponding onshore area (''COA''), as mandated by section 328(a)(1) of the Clean Air Act (''the Act''), the Clean Air Act Amendments of 1990. The portion of the OCS air regulations that is being updated pertains to the requirements for OCS sources for which the Santa Barbara County Air Pollution Control District (Santa Barbara County APCD), South Coast Air Quality Management District (South Coast AQMD), and the Ventura County Air Pollution Control District (Ventura County APCD) are the designated COAs. The intended effect of approving the requirements contained in ''Santa Barbara County Air Pollution Control District Requirements Applicable to OCS Sources'' (August, 1995), ''South Coast Air Quality Management District Requirements Applicable to OCS Sources'' (Part I and II) (August, 1995), and ''Ventura County Air Pollution Control District Requirements Applicable to OCS Sources'' (August, 1995) is to regulate emissions from OCS sources in accordance with the requirements onshore.

EFFECTIVE DATE: This action is effective October 12, 1995.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations:

Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency (LE–6102), 401 ''M'' Street, SW., Room M–1500, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, Air and Toxics Division (A–5–3), U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1197.

SUPPLEMENTARY INFORMATION:

Background

On January 18, 1995 in 60 FR 3603 and June 13, 1995 in 60 FR 31128, EPA proposed to approve the following requirements into the OCS Air Regulations: ''Santa Barbara County Air Pollution Control District Requirements Applicable to OCS Sources'', ''South Coast Air Quality Management District Requirements Applicable to OCS Sources'' (Part I and II), and ''Ventura County Air Pollution Control District Requirements Applicable to OCS Sources''. These requirements are being promulgated in response to the submittal of rules from local air pollution control agencies. EPA has

evaluated the above requirements to ensure that they are rationally related to the attainment or maintenance of federal or state ambient air quality standards or Part C of title I of the Act, that they are not designed expressly to prevent exploration and development of the OCS and that they are applicable to OCS sources. 40 CFR 55.1. EPA has also evaluated the rules to ensure that they are not arbitrary or capricious. 40 CFR 55.12(e). In addition, EPA has excluded administrative or procedural rules.

A 30-day public comment period was provided in 60 FR 3603 and 60 FR 31128 and no comments were received.

EPA Action

In this document, EPA takes final action to incorporate the proposed changes into 40 CFR part 55. No changes were made to the proposals set forth in the January 18, 1995 and June 13, 1995 notices of proposed rulemaking. EPA is approving the submittals as modified under section 328(a)(1) of the Act, 42 U.S.C. 7627. Section 328(a) of the Act requires that EPA establish requirements to control air pollution from OCS sources located within 25 miles of states' seaward boundaries that are the same as onshore requirements. To comply with this statutory mandate, EPA must incorporate applicable onshore rules into Part 55 as they exist onshore.

Administrative Requirements

A. Executive Order 12291 (Regulatory Impact Analysis)

The Office of Management and Budget has exempted this action from Executive Order 12866 review.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 requires each federal agency to perform a Regulatory Flexibility Analysis for all rules that are likely to have a ''significant impact on a substantial number of small entities.'' Small entities include small businesses, organizations, and governmental jurisdictions.

As was stated in the final regulation, the OCS rule does not apply to any small entities, and the structure of the rule averts direct impacts and mitigates indirect impacts on small entities. This consistency update merely incorporates onshore requirements into the OCS rule to maintain consistency with onshore regulations as required by section 328 of the Act and does not alter the structure of the rule.

The EPA certifies that this final rule will not have a significant impact on a substantial number of small entities.

C. Unfunded Mandates

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector or to State, local, or tribal governments in the aggregate.

EPA has determined that the final action promulgated today does not include a federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This federal action approves pre-existing requirements under State or local law, and imposes no new federal requirements. Accordingly, no additional costs to the State, local, or tribal governments, or to the private sector, result from the action.

List of Subjects in 40 CFR Part 55

Environmental protection, Administrative practice and procedures, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Nitrogen oxides, Outer Continental Shelf, Ozone, Particulate matter, Permits, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: August 25, 1995.

Felicia Marcus,

Regional Administrator.

Title 40 of the Code of Federal Regulations, part 55, is to be amended as follows:

PART 55—[AMENDED]

1. The authority citation for part 55 continues to read as follows:

Authority: Section 328 of the Clean Air Act (42 U.S.C. § 7401 *et seq.*) as amended by Public Law 101–549.

2. Section 55.14 is amended by revising paragraphs (e)(3)(ii)(F), (G), and (H) to read as follows:

§ 55.14 Requirements that apply to OCS sources located within 25 miles of states' seaward boundaries, by state.

* * * * *

(e) * * *

(3) * * *

(ii) * * *

(F) *Santa Barbara County Air Pollution Control District Requirements Applicable to OCS Sources,* August, 1995.

(G) *South Coast Air Quality Management District Requirements Applicable to OCS Sources* (Part I and Part II), August, 1995.

(H) *Ventura County Air Pollution Control District Requirements Applicable to OCS Sources,* August, 1995.

* * * * *

3. Appendix A to CFR Part 55 is amended by revising paragraph (b)(6), (7), and (8) under the heading ''California'' to read as follows:

Appendix A to 40 CFR Part 55—Listing of State and Local Requirements Incorporated by Reference Into Part 55, by State.

* * * * *

California

* * * * *

(b) * * *

(6) The following requirements are contained in *Santa Barbara County Air Pollution Control District Requirements Applicable to OCS Sources,* August, 1995:

Rule 102 Definitions (Adopted 7/30/91)
Rule 103 Severability (Adopted 10/23/78)
Rule 201 Permits Required (Adopted 7/2/79)
Rule 202 Exemptions to Rule 201 (Adopted 3/10/92)
Rule 203 Transfer (Adopted 10/23/78)
Rule 204 Applications (Adopted 10/23/78)
Rule 205 Standards for Granting Applications (Adopted 7/30/91)
Rule 206 Conditional Approval of Authority to Construct or Permit to Operate (Adopted 10/15/91)
Rule 207 Denial of Application (Adopted 10/23/78)
Rule 210 Fees (Adopted 5/7/91)
Rule 212 Emission Statements (Adopted 10/20/92)
Rule 301 Circumvention (Adopted 10/23/78)
Rule 302 Visible Emissions (Adopted 10/23/78)
Rule 304 Particulate Matter-Northern Zone (Adopted 10/23/78)
Rule 305 Particulate Matter Concentration-Southern Zone (Adopted 10/23/78)
Rule 306 Dust and fumes-Northern Zone (Adopted 10/23/78)
Rule 307 Particulate Matter Emission Weight Rate-Southern Zone (Adopted 10/23/78)
Rule 308 Incinerator Burning (Adopted 10/23/78)
Rule 309 Specific Contaminants (Adopted 10/23/78)
Rule 310 Odorous Organic Sulfides (Adopted 10/23/78)
Rule 311 Sulfur Content of Fuels (Adopted 10/23/78)
Rule 312 Open Fires (Adopted 10/2/90)
Rule 316 Storage and Transfer of Gasoline (Adopted 12/14/93)
Rule 317 Organic Solvents (Adopted 10/23/78)
Rule 318 Vacuum Producing Devices or Systems-Southern Zone (Adopted 10/23/78)
Rule 321 Control of Degreasing Operations (Adopted 7/10/90)

Rule 322 Metal Surface Coating Thinner and Reducer (Adopted 10/23/78)
Rule 323 Architectural Coatings (Adopted 2/20/90)
Rule 324 Disposal and Evaporation of Solvents (Adopted 10/23/78)
Rule 325 Crude Oil Production and Separation (Adopted 1/25/94)
Rule 326 Storage of Reactive Organic Liquid Compounds (Adopted 12/14/93)
Rule 327 Organic Liquid Cargo Tank Vessel Loading (Adopted 12/16/85)
Rule 328 Continuous Emission Monitoring (Adopted 10/23/78)
Rule 330 Surface Coating of Miscellaneous Metal Parts and Products (Adopted 11/13/90)
Rule 331 Fugitive Emissions Inspection and Maintenance (Adopted 12/10/91)
Rule 332 Petroleum Refinery Vacuum Producing Systems, Wastewater Separators and Process Turnarounds (Adopted 6/11/79)
Rule 333 Control of Emissions from Reciprocating Internal Combustion Engines (Adopted 12/10/91)
Rule 342 Control of Oxides of Nitrogen (NO_X from Boilers, Steam Generators and Process Heaters) (Adopted 03/10/92)
Rule 343 Petroleum Storage Tank Degassing (Adopted 12/14/93)
Rule 359 Flares and Thermal Oxidizers (6/28/94)
Rule 505 Breakdown Conditions Sections A.,B.1,. and D. only (Adopted 10/23/78)
Rule 603 Emergency Episode Plans (Adopted 6/15/81)
Rule 702 General Conformity (Adopted 10/20/94)

(7) The following requirements are contained in *South Coast Air Quality Management District Requirements Applicable to OCS Sources,* August, 1995:

Rule 102 Definition of Terms (Adopted 11/4/88)
Rule 103 Definition of Geographical Areas (Adopted 1/9/76)
Rule 104 Reporting of Source Test Data and Analyses (Adopted 1/9/76)
Rule 108 Alternative Emission Control Plans (Adopted 4/6/90)
Rule 109 Recordkeeping for Volatile Organic Compound Emissions (Adopted 3/6/92)
Rule 201 Permit to Construct (Adopted 1/5/90)
Rule 201.1 Permit Conditions in Federally Issued Permits to Construct (Adopted 1/5/90)
Rule 202 Temporary Permit to Operate (Adopted 5/7/76)
Rule 203 Permit to Operate (Adopted 1/5/90)
Rule 204 Permit Conditions (Adopted 3/6/92)
Rule 205 Expiration of Permits to Construct (Adopted 1/5/90)
Rule 206 Posting of Permit to Operate (Adopted 1/5/90)
Rule 207 Altering or Falsifying of Permit (Adopted 1/9/76)
Rule 208 Permit for Open Burning (Adopted 1/5/90)
Rule 209 Transfer and Voiding of Permits (Adopted 1/5/90)
Rule 210 Applications (Adopted 1/5/90)
Rule 212 Standards for Approving Permits (Adopted 8/12/94) except (c)(3) and (e)
Rule 214 Denial of Permits (Adopted 1/5/90)
Rule 217 Provisions for Sampling and Testing Facilities (Adopted 1/5/90)
Rule 218 Stack Monitoring (Adopted 8/7/81)
Rule 219 Equipment Not Requiring a Written Permit Pursuant to Regulation II (Adopted 8/12/94)
Rule 220 Exemption—Net Increase in Emissions (Adopted 8/7/81)
Rule 221 Plans (Adopted 1/4/85)
Rule 301 Permit Fees (Adopted 6/10/94) except (e)(3) and Table IV
Rule 304 Equipment, Materials, and Ambient Air Analyses (Adopted 6/10/94)
Rule 304.1 Analyses Fees (Adopted 6/10/94)
Rule 305 Fees for Acid Deposition (Adopted 10/4/91)
Rule 306 Plan Fees (Adopted 6/10/94)
Rule 309 Fees for Regulation XVI (Adopted 6/10/94)
Rule 401 Visible Emissions (Adopted 4/7/89)
Rule 403 Fugitive Dust (Adopted 7/9/93)
Rule 404 Particulate Matter—Concentration (Adopted 2/7/86)
Rule 405 Solid Particulate Matter—Weight (Adopted 2/7/86)
Rule 407 Liquid and Gaseous Air Contaminants (Adopted 4/2/82)
Rule 408 Circumvention (Adopted 5/7/76)
Rule 409 Combustion Contaminants (Adopted 8/7/81)
Rule 429 Start-Up and Shutdown Provisions for Oxides of Nitrogen (Adopted 12/21/90)
Rule 430 Breakdown Provisions, (a) and (e) only. (Adopted 5/5/78)
Rule 431.1 Sulfur Content of Gaseous Fuels (Adopted 10/2/92)
Rule 431.2 Sulfur Content of Liquid Fuels (Adopted 5/4/90)
Rule 431.3 Sulfur Content of Fossil Fuels (Adopted 5/7/76)
Rule 441 Research Operations (Adopted 5/7/76)
Rule 442 Usage of Solvents (Adopted 3/5/82)
Rule 444 Open Fires (Adopted 10/2/87)
Rule 463 Storage of Organic Liquids (Adopted 3/11/94)
Rule 465 Vacuum Producing Devices or Systems (Adopted 11/1/91)
Rule 468 Sulfur Recovery Units (Adopted 10/8/76)
Rule 473 Disposal of Solid and Liquid Wastes (Adopted 5/7/76)
Rule 474 Fuel Burning Equipment-Oxides of Nitrogen (Adopted 12/4/81)
Rule 475 Electric Power Generating Equipment (Adopted 8/7/78)
Rule 476 Steam Generating Equipment (Adopted 10/8/76)
Rule 480 Natural Gas Fired Control Devices (Adopted 10/7/77)
Addendum to Regulation IV (Effective 1977)
Rule 701 General (Adopted 7/9/82)
Rule 702 Definitions (Adopted 7/11/80)
Rule 704 Episode Declaration (Adopted 7/9/82)
Rule 707 Radio—Communication System (Adopted 7/11/80)
Rule 708 Plans (Adopted 7/9/82)
Rule 708.1 Stationary Sources Required to File Plans (Adopted 4/4/80)
Rule 708.2 Content of Stationary Source Curtailment Plans (Adopted 4/4/80)
Rule 708.4 Procedural Requirements for Plans (Adopted 7/11/80)
Rule 709 First Stage Episode Actions (Adopted 7/11/80)
Rule 710 Second Stage Episode Actions (Adopted 7/11/80)
Rule 711 Third Stage Episode Actions (Adopted 7/11/80)
Rule 712 Sulfate Episode Actions (Adopted 7/11/80)
Rule 715 Burning of Fossil Fuel on Episode Days (Adopted 8/24/77)
Regulation IX New Source Performance Standards (Adopted 4/8/94)
Rule 1106 Marine Coatings Operations (Adopted 1/13/95)
Rule 1107 Coating of Metal Parts and Products (Adopted 8/2/91)
Rule 1109 Emissions of Oxides of Nitrogen for Boilers and Process Heaters in Petroleum Refineries (Adopted 8/5/88)
Rule 1110 Emissions from Stationary Internal Combustion Engines (Demonstration) (Adopted 11/6/81)
Rule 1110.1 Emissions from Stationary Internal Combustion Engines (Adopted 10/4/85)
Rule 1110.2 Emissions from Gaseous and Liquid-Fueled Internal Combustion Engines (Adopted 12/9/94)
Rule 1113 Architectural Coatings (Adopted 9/6/91)
Rule 1116.1 Lightering Vessel Operations-Sulfur Content of Bunker Fuel (Adopted 10/20/78)
Rule 1121 Control of Nitrogen Oxides from Residential-Type Natural Gas-Fired Water Heaters (Adopted 12/1/78)
Rule 1122 Solvent Cleaners (Degreasers) (Adopted 4/5/91)
Rule 1123 Refinery Process Turnarounds (Adopted 12/7/90)
Rule 1129 Aerosol Coatings (Adopted 11/2/90)
Rule 1134 Emissions of Oxides of Nitrogen from Stationary Gas Turbines (Adopted 8/4/89)
Rule 1136 Wood Products Coatings (Adopted 8/12/94)
Rule 1140 Abrasive Blasting (Adopted 8/2/85)
Rule 1142 Marine Tank Vessel Operations (Adopted 7/19/91)
Rule 1146 Emissions of Oxides of Nitrogen from Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters (Adopted 5/13/94)
Rule 1146.1 Emission of Oxides of Nitrogen from Small Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters (Adopted 5/13/94)
Rule 1148 Thermally Enhanced Oil Recovery Wells (Adopted 11/5/82)
Rule 1149 Storage Tank Degassing (Adopted 4/1/88)
Rule 1168 Control of Volatile Organic Compound Emissions from Adhesive Application (Adopted 12/10/93)
Rule 1173 Fugitive Emissions of Volatile Organic Compounds (Adopted 5/13/94)

Rule 1176 Sumps and Wastewater Separators (Adopted 5/13/94)
Rule 1301 General (Adopted 6/28/90)
Rule 1302 Definitions (Adopted 5/3/91)
Rule 1303 Requirements (Adopted 5/3/91)
Rule 1304 Exemptions (Adopted 9/11/92)
Rule 1306 Emission Calculations (Adopted 5/3/91)
Rule 1313 Permits to Operate (Adopted 6/28/90)
Rule 1403 Asbestos Emissions from Demolition/Renovation Activities (Adopted 4/8/94)
Rule 1610 Old-Vehicle Scrapping (Adopted 1/14/94)
Rule 1701 General (Adopted 1/6/89)
Rule 1702 Definitions (Adopted 1/6/89)
Rule 1703 PSD Analysis (Adopted 10/7/88)
Rule 1704 Exemptions (Adopted 1/6/89)
Rule 1706 Emission Calculations (Adopted 1/6/89)
Rule 1713 Source Obligation (Adopted 10/7/88)
Regulation XVII Appendix (effective 1977)
Rule 1901 General Conformity (Adopted 9/9/94)
Rule 2000 General (Adopted 10/15/93)
Rule 2001 Applicability (Adopted 10/15/93)
Rule 2002 Allocations for Oxides of Nitrogen (NO_X) and Oxides of Sulfur (SO_X) (Adopted 10/15/93)
Rule 2004 Requirements (Adopted 10/15/93) except (l) (2 and 3)
Rule 2005 New Source Review for RECLAIM (Adopted 10/15/93) except (i)
Rule 2006 Permits (Adopted 10/15/93)
Rule 2007 Trading Requirements (Adopted 10/15/93)
Rule 2008 Mobile Source Credits (Adopted 10/15/93)
Rule 2010 Administrative Remedies and Sanctions (Adopted 10/15/93)
Rule 2011 Requirements for Monitoring, Reporting, and Recordkeeping for Oxides of Sulfur (SO_X) Emissions (Adopted 10/15/93)
Appendix A Volume IV—(Protocol for oxides of sulfur) (Adopted 9/9/94)
Rule 2012 Requirements for Monitoring, Reporting, and Recordkeeping for Oxides of Nitrogen (NO_X) Emissions (Adopted 10/15/93)
Appendix A Volume V—(Protocol for oxides of nitrogen) (Adopted 9/9/94)
Rule 2015 Backstop Provisions (Adopted 10/15/93) except (b)(1)(G) and (b)(3)(B)

(8) The following requirements are contained in *Ventura County Air Pollution Control District Requirements Applicable to OCS Sources*, August, 1995:

Rule 2 Definitions (Adopted 12/15/92)
Rule 5 Effective Date (Adopted 5/23/72)
Rule 6 Severability (Adopted 11/21/78)
Rule 7 Zone Boundaries (Adopted 6/14/77)
Rule 10 Permits Required (Adopted 7/5/83)
Rule 11 Application Contents (Adopted 8/15/78)
Rule 12 Statement by Application Preparer (Adopted 6/16/87)
Rule 13 Statement by Applicant (Adopted 11/21/78)
Rule 14 Trial Test Runs (Adopted 5/23/72)
Rule 15.1 Sampling and Testing Facilities (Adopted 10/12/93)
Rule 16 Permit Contents (Adopted 12/2/80)
Rule 18 Permit to Operate Application (Adopted 8/17/76)
Rule 19 Posting of Permits (Adopted 5/23/72)
Rule 20 Transfer of Permit (Adopted 5/23/72)
Rule 21 Expiration of Applications and Permits (Adopted 6/23/81)
Rule 23 Exemptions from Permits (Adopted 12/13/94)
Rule 24 Source Recordkeeping, Reporting, and Emission Statements (Adopted 9/15/92)
Rule 26 New Source Review (Adopted 10/22/91)
Rule 26.1 New Source Review—Definitions (Adopted 10/22/91)
Rule 26.2 New Source Review—Requirements (Adopted 10/22/91)
Rule 26.3 New Source Review—Exemptions (Adopted 10/22/91)
Rule 26.6 New Source Review—Calculations (Adopted 10/22/91)
Rule 26.8 New Source Review—Permit To Operate (Adopted 10/22/91)
Rule 26.10 New Source Review—PSD (Adopted 10/22/91)
Rule 28 Revocation of Permits (Adopted 7/18/72)
Rule 29 Conditions on Permits (Adopted 10/22/91)
Rule 30 Permit Renewal (Adopted 5/30/89)
Rule 32 Breakdown Conditions: Emergency Variances, A., B.1., and D. only. (Adopted 2/20/79)
Rule 34 Acid Deposition Control (Adopted 3/14/95)
Appendix II–A Information Required for Applications to the Air Pollution Control District (Adopted 12/86)
Appendix II–B Best Available Control Technology (BACT) Tables (Adopted 12/86)
Rule 42 Permit Fees (Adopted 7/12/94)
Rule 44 Exemption Evaluation Fee (Adopted 1/8/91)
Rule 45 Plan Fees (Adopted 6/19/90)
Rule 45.2 Asbestos Removal Fees (Adopted 8/4/92)
Rule 50 Opacity (Adopted 2/20/79)
Rule 52 Particulate Matter-Concentration (Adopted 5/23/72)
Rule 53 Particulate Matter-Process Weight (Adopted 7/18/72)
Rule 54 Sulfur Compounds (Adopted 6/14/94)
Rule 56 Open Fires (Adopted 3/29/94)
Rule 57 Combustion Contaminants-Specific (Adopted 6/14/77)
Rule 60 New Non-Mobile Equipment-Sulfur Dioxide, Nitrogen Oxides, and Particulate Matter (Adopted 7/8/72)
Rule 62.7 Asbestos—Demolition and Renovation (Adopted 6/16/92)
Rule 63 Separation and Combination of Emissions (Adopted 11/21/78)
Rule 64 Sulfur Content of Fuels (Adopted 6/14/94)
Rule 66 Organic Solvents (Adopted 11/24/87)
Rule 67 Vacuum Producing Devices (Adopted 7/5/83)
Rule 68 Carbon Monoxide (Adopted 6/14/77)
Rule 71 Crude Oil and Reactive Organic Compound Liquids (Adopted 12/13/94)
Rule 71.1 Crude Oil Production and Separation (Adopted 6/16/92)
Rule 71.2 Storage of Reactive Organic Compound Liquids (Adopted 9/26/89)
Rule 71.3 Transfer of Reactive Organic Compound Liquids (Adopted 6/16/92)
Rule 71.4 Petroleum Sumps, Pits, Ponds, and Well Cellars (Adopted 6/8/93)
Rule 71.5 Glycol Dehydrators (Adopted 12/13/94)
Rule 72 New Source Performance Standards (NSPS) (Adopted 6/28/94)
Rule 74 Specific Source Standards (Adopted 7/6/76)
Rule 74.1 Abrasive Blasting (Adopted 11/12/91)
Rule 74.2 Architectural Coatings (Adopted 08/11/92)
Rule 74.6 Surface Cleaning and Degreasing (Adopted 5/8/90)
Rule 74.6.1 Cold Cleaning Operations (Adopted 9/12/89)
Rule 74.6.2 Batch Loaded Vapor Degreasing Operations (Adopted 9/12/89)
Rule 74.7 Fugitive Emissions of Reactive Organic Compounds at Petroleum Refineries and Chemical Plants (Adopted 1/10/89)
Rule 74.8 Refinery Vacuum Producing Systems, Waste-water Separators and Process Turnarounds (Adopted 7/5/83)
Rule 74.9 Stationary Internal Combustion Engines (Adopted 12/21/93)
Rule 74.10 Components at Crude Oil Production Facilities and Natural Gas Production and Processing Facilities (Adopted 6/16/92)
Rule 74.11 Natural Gas-Fired Residential Water Heaters-Control of NOx (Adopted 4/9/85)
Rule 74.12 Surface Coating of Metal Parts and Products (Adopted 12/13/94)
Rule 74.15 Boilers, Steam Generators and Process Heaters (5MM BTUs and greater) (Adopted 11/8/94)
Rule 74.15.1 Boilers, Steam Generators and Process Heaters (1–5MM BTUs) (Adopted 5/11/93)
Rule 74.16 Oil Field Drilling Operations (Adopted 1/8/91)
Rule 74.20 Adhesives and Sealants (Adopted 6/8/93)
Rule 74.23 Stationary Gas Turbines (Adopted 3/14/95)
Rule 74.24 Marine Coating Operations (Adopted 3/8/94)
Rule 74.26 Crude Oil Storage Tank Degassing Operations (Adopted 11/8/94)
Rule 74.27 Gasoline and ROC Liquid Storage Tank Degassing Operations (Adopted 11/8/94)
Rule 74.28 Asphalt Roofing Operations (Adopted 5/10/94)
Rule 74.30 Wood Products Coatings (Adopted 5/17/94)
Rule 75 Circumvention (Adopted 11/27/78)
Appendix IV–A Soap Bubble Tests (Adopted 12/86)
Rule 100 Analytical Methods (Adopted 7/18/72)
Rule 101 Sampling and Testing Facilities (Adopted 5/23/72)
Rule 102 Source Tests (Adopted 11/21/78)
Rule 103 Stack Monitoring (Adopted 6/4/91)

Rule 154 Stage 1 Episode Actions (Adopted 9/17/91)
Rule 155 Stage 2 Episode Actions (Adopted 9/17/91)
Rule 156 Stage 3 Episode Actions (Adopted 9/17/91)
Rule 158 Source Abatement Plans (Adopted 9/17/91)
Rule 159 Traffic Abatement Procedures (Adopted 9/17/91)

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[FR Doc. 95–22519 Filed 9–11–95; 8:45 am]
BILLING CODE 6050–50–P

40 CFR Part 70

[LA–001; FRL–5293–3]

Clean Air Act Final Full Approval of Operating Permits Program; Louisiana Department of Environmental Quality

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final full approval.

SUMMARY: The EPA is promulgating full approval of the Louisiana Operating Permits program submitted by the Governor of Louisiana for the Louisiana Department of Environmental Quality (LDEQ) for the purpose of complying with Federal requirements which mandate that States develop, and submit to EPA, programs for issuing operating permits to all major stationary sources, and to certain other sources.

EFFECTIVE DATE: This program will be effective October 12, 1995.

ADDRESSES: Copies of the State's submittal and other supporting information used in developing the final full approval are available for inspection during normal business hours at the following location:

Environmental Protection Agency, Region 6, Air Permits Section (6PD–R), 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

Louisiana Department of Environmental Quality, Office of Air Quality, 7290 Bluebonnet Boulevard, P.O. Box 82135, Baton Rouge, Louisiana 70884–2135.

FOR FURTHER INFORMATION CONTACT: Joyce P. Stanton, Multimedia Planning and Permitting Division, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone 214–665–7547.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

A. Introduction

Title V of the Clean Air Act (''the Act''), and implementing regulations at 40 Code of Federal Regulations (CFR) part 70 require that States develop and submit operating permits programs to the EPA by November 15, 1993, and that the EPA act to approve or disapprove each program within one year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act and the part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, the EPA may grant the program interim approval for a period of up to two years. If the EPA has not fully approved a program by two years after the date of November 15, 1993, or by the end of an interim program, it must establish and implement a Federal program.

On August 25, 1994, the EPA proposed interim approval of the Operating Permits program submitted by the LDEQ on November 15, 1993, to meet the requirements of part 70 and title V of the Act. (See 59 FR 43797, August 25, 1994) (hereafter Interim Approval Notice). Many comments were received on the Interim Approval Notice. The LDEQ provided comments and revised their Operating Permits program to address the issues discussed in the Interim Approval Notice. These revisions were sent to the EPA on November 10, 1994. On April 7, 1995, the EPA rescinded the proposed interim approval, addressed all comments received on the Interim Approval Notice, and proposed full approval of the Operating Permits program for the LDEQ based on the revised Operating Permits program. (See 60 FR 17750, April 7, 1995) (hereafter Full Approval Notice). The EPA received public comment on the Full Approval Notice and compiled a technical support document which describes the Operating Permits program in greater detail.

A single commentor, the National Environmental Development Association-Clean Air Regulatory Project (NEDA-CARP), provided comments on the Full Approval Notice. NEDA-CARP was concerned that the EPA was requiring the LDEQ to revise its regulatory provision on research and development (R&D) facilities to prevent R&D facilities from being considered separately from sources with which they are co-located, in order to receive full approval. NEDA-CARP stated its belief that the EPA was not correct in its interpretation of 40 CFR part 70 and that it is likely that the part 70 rules will be revised in the near future to allow States the flexibility to consider co-located R&D facilities separately from the source. The EPA appreciates NEDA-CARP's concerns; however, the Louisiana Operating Permits program must be evaluated based on the part 70 rules and interpretations in place at the time of approval. In any case, the premise of NEDA-CARP's comment is incorrect. Apparently basing its comment on drafts of a proposed revision to part 70, NEDA-CARP claims that the proposal would allow an R&D facility to be treated separately for applicability purposes regardless of its Standard Industrial Classification (SIC) code or whether it functions as a support facility. While it is true that the proposed rule would create a separate industrial classification for R&D, the preamble to the proposed rule clarifies that this is a codification of the EPA's previous understanding of the SIC code test embodied in the current part 70, which would allow an R&D facility to be treated separately only if it belongs to a separate two digit SIC code. Moreover, the proposal expressly retains from the SIC code approach the duty to aggregate an R&D facility with other on-site sources for which it functions as a support facility. Therefore, the EPA continues to believe that these changes to Louisiana's Operating Permits program were necessary for full approval.

NEDA-CARP's other comments were supportive of the positions taken by the EPA in the Full Approval Notice such as the definitions of ''title I modification'' and ''case-by-case'' determinations, and the approval of the insignificant activities and criteria.

In this notice, the EPA is taking final action to promulgate full approval of the Operating Permits program for the LDEQ.

II. Final Action and Implications

A. Analysis of State Submission

On April 7, 1995, the EPA proposed full approval of the State of Louisiana's Title V Operating Permits program. (See 60 FR 17750). The program elements discussed in the proposed notice are unchanged from the analysis in the Full Approval Notice and continue to fully meet the requirements of 40 CFR part 70.

In the Interim Approval Notice, the following items were delineated as deficiencies in the Louisiana Operating permit program: State confidentiality provisions could be interpreted to protect the contents of the permit itself from disclosure; Louisiana Administrative Code (LAC) 33:III.501.B.7 allowed the permitting authority to consider a certain complex within a facility as a source separate from the facility with which it is co-located, provided that the complex is used solely for R & D of new processes

and/or products, and is not engaged in the manufacture of products for commercial sale; deadlines for submittal of Acid Rain permits were inconsistent; LAC 33.III.521.A.6 appeared to allow administrative amendments to permits to incorporate certain ''off-permit'' changes; it was unclear whether the State could lawfully require records to be retained for five years; LAC 33.III.527.A.3 allowed certain changes that rendered existing compliance terms irrelevant to be incorporated through minor modification procedures, yet was unclear whether the criteria in the State rule conformed to 40 CFR 70.4(b)(14); State provisions did not include a requirement that the permit specify the origin of and reference the authority for each term or condition, nor did they identify differences in form from the applicable requirements upon which the terms were based or contain various other elements required by 40 CFR 70.6; inadequate definition of ''title I modification;'' provisions to determine insignificant activities were not included with the State's original submittal. As discussed in the notice proposing full approval, Louisiana has addressed all of these items. For further discussion of these items, please see the proposed full approval and the Technical Support Document.

B. Options for Approval/Disapproval

The EPA is promulgating full approval of the Operating Permits program submitted to the EPA for the LDEQ on November 15, 1993, and revised on November 10, 1994. Among other things, the LDEQ has demonstrated that the program will be adequate to meet the minimum elements of a State operating permits program as specified in 40 CFR part 70.

Requirements for approval, specified in 40 CFR 70.4(b), encompass section 112(l)(5) requirements for approval of a program for delegation of section 112 standards as promulgated by the EPA as they apply to part 70 sources. Section 112(l)(5) requires that the State's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under part 70.

Therefore, the EPA is also promulgating full approval under section 112(l)(5) and 40 CFR 63.91 of the State's program for receiving delegation of section 112 standards that are unchanged from Federal standards as promulgated. This program for delegations only applies to sources covered by the part 70 program.

III. Administrative Requirements

A. Docket

Copies of the State's submittal and other information relied upon for the final full approval, including the public comments received and reviewed by the EPA on the proposal, are contained in the docket maintained at the EPA Regional Office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, the EPA in the development of this final full approval. The docket is available for public inspection at the location listed under the **ADDRESSES** section of this document.

B. Executive Order 12866

The Office of Management and Budget has exempted this action from Executive Order 12866 review.

C. Regulatory Flexibility Act

The EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permits programs submitted to satisfy the requirements of 40 CFR part 70. Because this action does not impose any new requirements, it does not have a significant impact on a substantial number of small entities.

D. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, the EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under Section 205, the EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 of the Unfunded Mandates Act requires the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action promulgated today does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 70

Administrative practice and procedure, Air pollution control, Environmental protection, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: August 25, 1995.

A. Stanley Meiburg,

Acting Regional Administrator (6RA).

40 CFR Part 70 is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

2. Appendix A is amended by adding an entry for ''Louisiana'' in alphabetical order to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Louisiana

(a) The Louisiana Department of Environmental Quality, Air Quality Division submitted an Operating Permits program on November 15, 1993, which was revised November 10, 1994, and became effective on October 12, 1995.

(b) [Reserved]

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[FR Doc. 95–22330 Filed 9–11–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 81

[FRL–5279–6]

Designation of Areas for Air Quality Planning Purposes; Wyoming; Redesignation of Particulate Matter Attainment Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: In this document, EPA is approving a December 19, 1994 request from the Governor of Wyoming to redesignate the Powder River Basin particulate matter attainment area in portions of Campbell and Converse Counties to exclude an area designated as the Kennecott/Puron Prevention of Significant Deterioration (PSD) Baseline area, pursuant to section 107 of the Clean Air Act (Act). EPA is designating the Kennecott/Puron PSD Baseline area as a separate particulate matter attainment area under section 107 of the Act. EPA is approving the State's

redesignation request because the State has adequately followed the applicable Federal requirements and policy. Approval of the section 107 redesignation eliminates the minor source baseline date for particulate matter in the Powder River Basin area which was triggered by the submittal of a complete PSD permit application for the Kennecott/Puron facility.

DATES: This final rule is effective on November 13, 1995 unless adverse or critical comments are received by October 12, 1995. If the effective date is delayed, timely notice will be published in the **Federal Register.**

ADDRESSES: Copies of the State's submittal and other relevant information are available for inspection during normal business hours at the following locations: Air Programs Branch, U.S. Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2466; and Air Quality Division, Wyoming Department of Environmental Quality, 122 West 25th Street, Herschler Building, Cheyenne, Wyoming 82002.

FOR FURTHER INFORMATION CONTACT: Vicki Stamper, 8ART–AP, U.S. Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2466, (303) 293–1765.

SUPPLEMENTARY INFORMATION:

I. Background

The Powder River Basin particulate matter attainment area was initially designated by EPA in the January 14, 1993 **Federal Register** (see 58 FR 4348–4350). This designation was established in accordance with the Federal PSD regulations, which provide States with the option of establishing numerous PSD baseline areas under section 107(d) of the Act, as long as the baseline areas do not intersect or are not smaller than the area of 1 μg/m^3 ambient impact of any major stationary source or major modification which established the minor source baseline date or which was subject to PSD permitting requirements (see 40 CFR 52.21(a)(15)).

This designation of the Powder River Basin as a separate baseline area under section 107 of the Act effectively ''untriggered'' the particulate matter minor source baseline date in the Powder River Basin particulate matter attainment area. The State's PSD regulations at that time provided that the particulate matter minor source baseline date in the Powder River Basin area would not be triggered until the submittal of the first complete PSD permit application for a major stationary source or major modification locating in or significantly impacting the Powder River Basin particulate matter attainment area, or by January 1, 1996, whichever occurred first. The State has since amended its PSD regulations to trigger the particulate matter minor source baseline date in the Powder River Basin no later than January 1, 2001.

Subsequently, in August of 1994, a PSD permit application was submitted for the Kennecott/Puron facility to construct a large coal beneficiation plant in the Powder River Basin of Campbell County, Wyoming. In order to avoid triggering the particulate matter minor source baseline date for the entire Powder River Basin particulate matter attainment area, the State submitted a request on December 19, 1994 to redesignate the Powder River Basin particulate matter attainment area to exclude the 1 μg/m^3 air quality impact area of the Kennecott/Puron facility. As stated above, this is allowed under the Federal PSD permitting regulations, as long as the area to be excluded from the Powder River Basin particulate matter attainment area encompasses the entire 1 μg/m^3 ambient impact of the Kennecott/Puron facility.

II. Evaluation of State's Submittal

The State's December 19, 1994 submittal consisted of a description of the boundary of the Kennecott/Puron PSD Baseline area to be excluded from the Powder River Basin area and supporting modeling results which were used to define the 1 μg/m^3 air quality impact area of the Kennecott/Puron facility. EPA originally noted a few concerns with the modeling, which were identified to the State in letters dated February 2, 1995 and March 31, 1995. The State responded to EPA's concerns in letters dated April 15, 1995 and April 28, 1995. The State's responses adequately addressed EPA's concerns. Thus, EPA believes the State has adequately assessed the 1 μg/m^3 air quality impact area of the Kennecott/Puron facility.

The State has followed the terms of EPA's redesignation policy in its December 19, 1994 request to redesignate the Powder River Basin particulate matter attainment area to exclude the Kennecott/Puron PSD Baseline area and to designate the Kennecott/Puron PSD Baseline area as a separate section 107 particulate matter attainment area. Authority for the State's action is provided for in section 107(d)(3)(D) of the Act, which states: ''the Governor of any State may, on the Governor's own motion, submit to the Administrator a revised designation of any area or portion thereof within the State [and EPA] shall approve such redesignation.'' Therefore, EPA is approving the State's request.

This approval eliminates the minor source baseline date for particulate matter that was established in the Powder River Basin area by the submittal of a complete PSD permit application for the Kennecott/Puron facility. Thus, until the time that the minor source baseline date is triggered, minor source emissions that exist in the Powder River Basin attainment area will become part of background emissions for the area. Once the minor source baseline date is triggered, all new growth from minor sources will begin consuming increment. The particulate matter minor source baseline date is considered to be triggered in the Kennecott/Puron PSD Baseline particulate matter attainment area as of the date the facility's PSD permit application was deemed complete.

FINAL ACTION: EPA is approving the State of Wyoming's request to redesignate the Powder River Basin particulate matter attainment area to exclude the Kennecott/Puron PSD Baseline area, which is being designated as a separate section 107 particulate matter attainment area. The new section 107 Kennecott/Puron PSD Baseline particulate matter attainment area is defined as follows: the area described by the W½SW¼ Section 18, W½NW¼, NW¼SW¼ Section 19, T47N, R70W, S½ Section 13, N½, N½SW¼, N½SE¼ Section 24, T47N, R71W, Campbell County, Wyoming. The Powder River Basin particulate matter attainment area boundary description in 40 CFR part 81 is thus being amended to exclude the Kennecott/Puron PSD Baseline area.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the State's request should adverse or critical comments be filed. Under the procedures established in the May 10, 1994 **Federal Register** (59 FR 24054), this action will be effective on November 13, 1995 unless, within 30 days of its publication, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a

proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on November 13, 1995.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to any SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Redesignation of an area under section 107(d)(3)(D) of the Act does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. The Administrator certifies that the approval of the redesignation request will not affect a substantial number of small entities.

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

The State has requested redesignation of the Powder River Basin particulate matter attainment area, to exclude a portion of that area, in accordance with section 107 of the Act. EPA's approval of this redesignation request will merely have the effect of splitting the currently designated Powder River Basin particulate matter attainment area into two parts and will impose no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, will result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 13, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: August 10, 1995.

Jack W. McGraw,

Acting Regional Administrator.

40 CFR part 81, subpart B, is amended as follows:

PART 81—[AMENDED]

1. The authority citation for Part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

§ 81.351 [Amended]

2. Section 81.351 is amended by revising the Wyoming TSP table to read as follows:

* * * * *

WYOMING—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Trona Industrial Area (Sweetwater County)	.....	X	.....	.....
Powder River Basin	.....	.....	.....	X
Campbell County (part) Converse County (part) That area bounded by Township 40 through 52 North, and Ranges 69 through 73 West, inclusive of the Sixth Principal Meridian, Campbell and Converse Counties, excluding the areas defined as the Pacific Power and Light attainment area, the Hampshire Energy attainment area, and the Kennecott/Puron PSD Baseline attainment area.				
Pacific Power and Light Area	.....	.....	.....	X
Campbell County (part) That area bounded by NW1/4 of Section 27, T50N, R71W, Campbell County, Wyoming.				
Hampshire Energy Area	.....	.....	.....	X
Campbell County (part) That area bounded by Section 6 excluding the SW1/4; E1/2 Section 7; Section 17 excluding the SW1/4; Section 14 excluding the SE1/4; Sections 2, 3, 4, 5, 8, 9, 10, 11, 15, 16 of T48N, R70W and Section 26 excluding the NE1/4; SW1/4 Section 23; Sections 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, 33, 34, 35 of T49N, R70W.				
Kennecott/Puron PSD Baseline Area	.....	.....	.....	X
Campbell County (part) That area described by the W1/2SW1/4 Section 18, W1/2NW1/4, NW1/4SW1/4 Section 19, T47N, R70W, S1/2 Section 13, N1/2, N1/2SW1/4, N1/2SE1/4 Section 24, T47N, R71W.				
Rest of State	.....	.....	.....	X

* * * * *

[FR Doc. 95–22150 Filed 9–11–95; 8:45 am]
BILLING CODE 6560–50–P

40 CFR Part 282

[FRL–5277–6]

Underground Storage Tank Program: Approved State Program for Vermont

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: The Resource Conservation and Recovery Act of 1976, as amended (RCRA), authorizes the U.S. Environmental Protection Agency (EPA) to grant approval to states to operate their underground storage tank programs in lieu of the federal program. Forty CFR part 282 codifies EPA's decision to approve state programs and incorporates by reference those provisions of the state statutes and regulations that will be subject to EPA's inspection and enforcement authorities under Sections 9005 and 9006 of RCRA Subtitle I and other applicable statutory and regulatory provisions. This rule codifies in 40 CFR part 282 the prior approval of Vermont's underground storage tank program and incorporates by reference appropriate provisions of state statutes and regulations.

DATES: This regulation is effective November 13, 1995, unless EPA publishes a prior **Federal Register** document withdrawing this immediate final rule. All comments on the codification of Vermont's underground storage tank program must be received by the close of business October 12, 1995. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register, as of November 13, 1995, in accordance with 5 U.S.C. 552(a).

ADDRESSES: Comments may be mailed to the Docket Clerk (Docket No. UST 5–1), Underground Storage Tank Program, HPU–CAN7, U.S. EPA Region I, JFK Federal Building, Boston, MA 02203–2211. Comments received by EPA may be inspected in the public docket, located in the Waste Management Division Record Center, 90 Canal St., Boston, MA 02203 from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Joan Coyle, Underground Storage Tank Program, HPU–CAN7, U.S. EPA Region I, JFK Federal Building, Boston, MA 02203–2211. Phone: (617) 573–9667.

SUPPLEMENTARY INFORMATION:

Background

Section 9004 of the Resource Conservation and Recovery Act of 1976, as amended, (RCRA), 42 U.S.C. 6991c, allows the U.S. Environmental Protection Agency to approve state underground storage tank programs to operate in the state in lieu of the federal underground storage tank program. EPA published a **Federal Register** document announcing its decision to grant approval to Vermont. (57 FR 186, January 3, 1992). Approval was effective on February 3, 1992.

EPA codifies its approval of state programs in 40 CFR part 282 and incorporates by reference therein the state statutes and regulations that will be subject to EPA's inspection and enforcement authorities under Sections 9005 and 9006 of Subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, and other applicable statutory and regulatory provisions. Today's rulemaking codifies EPA's approval of the Vermont underground storage tank program. This codification reflects only the state underground storage tank program in effect at the time EPA granted Vermont approval under section 9004(a), 42 U.S.C. 6991c(a). EPA provided notice and opportunity for comment earlier during the Agency's decision to approve the Vermont program. EPA is not now reopening that decision nor requesting comment on it.

Codification provides clear notice to the public of the scope of the approved program in each state. By codifying the approved Vermont program and by amending the Code of Federal Regulations whenever a new or different set of requirements is approved in Vermont, the status of federally approved requirements of the Vermont program will be readily discernible. Only those provisions of the Vermont underground storage tank program for which approval has been granted by EPA will be incorporated by reference for enforcement purposes.

To codify EPA's approval of Vermont's underground storage tank program, EPA has added Section 282.95 to Title 40 of the CFR. Section 282.95 incorporates by reference for enforcement purposes the state's statutes and regulations. Section 282.95 also references the Attorney General's Statement, Demonstration of Adequate Enforcement Procedures, the Program Description, and the Memorandum of Agreement, which are approved as part of the underground storage tank program under Subtitle I of RCRA.

The Agency retains the authority under Sections 9005 and 9006 of Subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, and other applicable statutory and regulatory provisions to undertake inspections and enforcement actions in approved states. With respect to such an enforcement action, EPA will rely on federal sanctions, federal inspection authorities, and federal procedures rather than the state authorized analogs to these provisions. Therefore, the approved Vermont enforcement authorities will not be incorporated by reference. Forty CFR § 282.95 lists those approved Vermont authorities that would fall into this category.

The public also needs to be aware that some provisions of Vermont's underground storage tank program are not part of the federally approved state program. These are:

- Registration requirements for tanks greater than 1,100 gallons containing heating oil consumed on the premises where stored; and
- Permanent closure requirements for tanks greater than 1,100 gallons containing heating oil consumed on the premises where stored.

These non-approved provisions are not part of the RCRA Subtitle I program, because they are ''broader in scope'' than Subtitle I of RCRA. See 40 CFR 281.12(a)(3)(ii). As a result, state provisions which are ''broader in scope'' than the federal program are not incorporated by reference for purposes of enforcement in part 282. Section 282.95 of the codification simply lists for reference and clarity the Vermont statutory and regulatory provisions which are ''broader in scope'' than the federal program and which are not, therefore, part of the approved program being codified today. ''Broader in scope'' provisions cannot be enforced by EPA. The State, however, will continue to enforce such provisions.

Certification Under the Regulatory Flexibility Act

This rule codifies the decision already made (57 FR 186, Jan. 3, 1992) to approve the Vermont underground storage tank program and thus has no separate effect. Therefore, this rule does not require a regulatory flexibility analysis. Thus, pursuant to Section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of Section 6 of Executive Order 12866.

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed or final rule. This rule will not impose any information requirements upon the regulated community.

List of Subjects in 40 CFR Part 282

Environmental protection, Hazardous substances, Incorporation by reference, Intergovernmental relations, State program approval, Underground storage tanks, Water pollution control.

Dated: July 20, 1995.

John P. DeVillars,

Regional Administrator.

For the reasons set forth in the preamble, 40 CFR part 282 is amended as follows:

PART 282—APPROVED UNDERGROUND STORAGE TANK PROGRAMS

1. The authority citation for part 282 continues to read as follows:

Authority: 42 U.S.C. 6912, 6991c, 6991d, and 6991e.

2. Subpart B is amended by adding § 282.95 to read as follows:

Subpart B—Approved State Programs

§ 282.95 Vermont State-Administered Program.

(a) The State of Vermont is approved to administer and enforce an underground storage tank program in lieu of the federal program under Subtitle I of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6991 *et seq.* The State's program, as administered by the Vermont Department of Environmental Conservation, was approved by EPA pursuant to 42 U.S.C. 6991c and 40 CFR part 281. EPA approved the Vermont program on January 3, 1992, and the approval was effective on February 3, 1992.

(b) Vermont has primary responsibility for enforcing its underground storage tank program. However, EPA retains the authority to exercise its inspection and enforcement authorities under Sections 9005 and 9006 of Subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, as well as under other statutory and regulatory provisions.

(c) To retain program approval, Vermont must revise its approved program to adopt new changes to the federal Subtitle I program which make it more stringent, in accordance with Section 9004 of RCRA, 42 U.S.C. 6991c, and 40 CFR part 281, subpart E. If Vermont obtains approval for the revised requirements pursuant to Section 9004 of RCRA, 42 U.S.C. 6991c, the newly approved statutory and regulatory provisions will be added to this Subpart and notice of any change will be published in the **Federal Register**.

(d) Vermont has final approval for the following elements submitted to EPA in Vermont's program application for final approval and approved by EPA on January 3, 1992. Copies may be obtained from the Underground Storage Tank Program, Vermont Department of Environmental Conservation, 103 South Main Street, West Building, Waterbury, VT 05671–0404. The elements are listed below:

(1) *State statutes and regulations.* (i) The provisions cited in this paragraph are incorporated by reference as part of the underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(A) Vermont Statutory Requirements Applicable to the Underground Storage Tank Program, 1995.

(B) Vermont Regulatory Requirements Applicable to the Underground Storage Tank Program, 1995.

(ii) The following statutes and regulations are part of the approved state program, although not incorporated by reference herein for enforcement purposes.

(A) The statutory provisions include: Title 10 Vermont Statutes Annotated, Chapter 59, Sections 1931 through 1935.

(B) The regulatory provisions include: Vermont Environmental Protection Rules, Chapter 8, Sections 104 through 106.

(iii) The following statutory and regulatory provisions are broader in scope than the federal program, are not part of the approved program, and are not incorporated by reference herein for enforcement purposes.

(A) Title 10 Vermont Statutes Annotated, Chapter 59, Section 1929, insofar as it refers to registration requirements for tanks greater than 1,100 gallons containing heating oil consumed on the premises where stored.

(B) Vermont Environmental Protection Rules, Chapter 8, Section 301, registration requirements, and Section 605(2), permanent closure requirements, insofar as they refer to tanks greater than 1,100 gallons containing heating oil consumed on the premises where stored.

(2) *Statement of legal authority.* (i) ''Attorney General's Statement for Final Approval,'' signed by the Attorney General of Vermont on April 11, 1991, though not incorporated by reference, is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(ii) Letter from the Attorney General of Vermont to EPA, April 11, 1991, though not incorporated by reference, is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(3) *Demonstration of procedures for adequate enforcement.* The ''Demonstration of Procedures for Adequate Enforcement'' submitted as part of the original application in May 1991, though not incorporated by reference, is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(4) *Program Description.* The program description and any other material submitted as part of the original application in May 1991, though not incorporated by reference, are referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(5) *Memorandum of Agreement.* On March 2, 1992, EPA and the Vermont Department of Environmental Conservation signed the Memorandum of Agreement. Though not incorporated by reference, the Memorandum of Agreement is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

3. Appendix A to part 282 is amended by adding in alphabetical order ''Vermont'' and its listing.

Appendix A to Part 282—State Requirements Incorporated by Reference in Part 282 of the Code of Federal Regulations

* * * * *

Vermont

(a) The statutory provisions include Vermont Statutes Annotated, 1992, Chapter 59. Underground Liquid Storage Tanks:

Section 1921 Purpose.
Section 1922 Definitions.
Section 1923 Notice of New or Existing Underground Storage Tank.
Section 1924 Integrity Report.
Section 1925 Notice in Land Records.
Section 1926 Unused and Abandoned Tanks.
Section 1927 Regulation of Category One Tanks.
Section 1928 Regulation of Large Farm and Residential Motor Fuel Tanks.
Section 1930 Implementation; Coordination.
Section 1936 Licensure of Tank Inspectors.

Section 1938 Underground Storage Tank Trust Fund.
Section 1939 Risk Retention Pool.
Section 1940 Underground Storage Tank Incentive Program.
Section 1941 Petroleum Cleanup Fund.
Section 1942 Petroleum Distributor Licensing Fee.
Section 1943 Petroleum Tank Assessment.
Section 1944 Underground Storage Tank Loan Assistance Program.

(b) The regulatory provisions include State of Vermont, Agency of Natural Resources, Underground Storage Tank Regulations, February 1, 1991:

(1) Subchapter 1: General.
Section 8–101 Purpose.
Section 8–102 Applicability.
Section 8–103 Severability.
(2) Subchapter 2: Definitions.
Section 8–201 Definitions.
(3) Subchapter 3: Notification and Permits.
Section 8–301 Notification, except for the following words in section 8–301(1), ''Notification is also required for any tank used exclusively for on-premises heating that is greater than 1100 gallons in size.''
Section 8–302 Permits.
Section 8–303 Financial Responsibility Requirements.
Section 8–304 Petroleum Tank Assessment.
Section 8–305 Innovative Technology.
(4) Subchapter 4: Minimum Standards for New and Replacements Tanks and Piping.
Section 8–401 General Requirements.
Section 8–402 Tanks—Design and Manufacturing Standards.
Section 8–403 Tanks—Secondary Containment.
Section 8–404 Tanks—Release Detection.
Section 8–405 Piping—Design and Construction.
Section 8–406 Compatibility.
Section 8–407 Spill and Overfill Prevention Equipment.
Section 8–408 Installation.
(5) Subchapter 5: Minimum Operating Standards for Existing Tanks and Piping.
Section 8–501 General Requirements.
Section 8–502 Spill and Overfill Prevention.
Section 8–503 Corrosion Protection of Metallic Components.
Section 8–504 Release Detection.
Section 8–505 Compatibility.
Section 8–506 Repairs.
(6) Subchapter 6: Reporting, Investigation, Corrective Action and UST Closure.
Section 8–601 General Requirement, except for the following words, ''Heating oil tanks greater than 1100 gallons capacity used exclusively for on-premise heating purposes are subject to the requirements for permanent closure in accordance with subsection 8–605(2).''
Section 8–602 Reporting.
Section 8–603 Release Investigation and Confirmation.
Section 8–604 Corrective Action.
Section 8–605 Closure of USTs.
Appendix A Groundwater Monitoring Requirements.
Appendix B Inventory Monitoring Procedures.
Appendix C Procedures for Manual Tank Gauging.
Appendix D Installation Requirements Applicable to New and Replacement UST Systems.

[FR Doc. 95–22487 Filed 9–11–95; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[GEN Docket No. 89–623; FCC 91–43]

Emergency Position Indicating Radiobeacons; Correction

AGENCY: Federal Communications Commission.

ACTION: Correcting amendments to the CFR.

SUMMARY: This document contains a correction to the final regulations, which were published on March 20, 1991, (56 FR 11683). The regulations relate to the test procedures for Emergency Position Indicating Radiobeacons contained in 47 CFR 2.1515(b).

EFFECTIVE DATE: September 8, 1995.

FOR FURTHER INFORMATION CONTACT: John Reed, Office of Engineering and Technology, (202) 739–0704.

List of Subjects in 47 CFR Part 2

Communications equipment, Radio.

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

Accordingly, 47 CFR Part 2 is corrected by making the following correcting amendments:

1. The authority citation for Part 2 continues to read as follows:

Authority: Sections 4, 302, 303, and 307 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154, 302, 303, and 307, unless otherwise noted.

§ 2.1515 [Corrected]

2. In Section 2.1515, paragraph (b) (Step 2), the I.F. bandwidth ''10 Hz'' is corrected to read ''10 kHz'' and in (Step 5), the I.F. bandwidth of ''100 kHz'' is corrected to read ''100 Hz''.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–22567 Filed 9–11–95; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 18

[GEN Docket No. 92–255; FCC 94–155]

Magnetic Resonance Systems; Correction

AGENCY: Federal Communications Commission.

ACTION: Correcting amendments to the CFR.

SUMMARY: This document contains a correction to the final regulations, which were published on August 3, 1994, (59 FR 39472). The regulations relate to the exemption from the standards for non-consumer ultrasonic equipment of non-consumer magnetic resonance equipment used for medical diagnostic and monitoring applications contained in 47 CFR Section 18.121.

EFFECTIVE DATE: September 8, 1995.

FOR FURTHER INFORMATION CONTACT: John Reed, Office of Engineering and Technology, (202) 739–0704.

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this correction were amended in ET Docket No. 92–255, modifying 47 CFR Section 18.121.

Need for Correction

As published in the CFR, the final regulations contain errors that may prove to be misleading and are in need of correction.

Correction of Publication

Accordingly, the publication on August 3, 1994, of the final regulations, which were the subject of FR Doc. 94–18799, is corrected as follows:

Section 18.121 is revised to read as follows:

§ 18.121 Exemptions.

Non-consumer ultrasonic equipment, and non-consumer magnetic resonance equipment, that is used for medical diagnostic and monitoring applications is subject only to the provisions of Section 18.105, Sections 18.109 through 18.119, Section 18.301 and Section 18.303 of this Part.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–22568 Filed 9–11–95; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 95–86; RM–8636]

Radio Broadcasting Services; Frankenmuth, MI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 229A to Frankenmuth, Michigan, as that community's first local service in response to a petition filed by Frankenmuth Broadcasting, Inc. *See* 60 FR 32933, June 26, 1995. There is a site restriction 14.9 kilometers (9.3 miles) southeast of the community at coordinates 43–18–21 and 83–33–28. Concurrence has been received from the Canadian government for Channel 229A as a specially negotiated short-spaced allotment. With this action, this proceeding is terminated.

DATES: Effective October 23, 1995. The window period for filing applications will open on October 23, 1995, and close on November 24, 1995.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order,* MM Docket No. 95–86, adopted August 30, 1995, and released September 7, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Michigan, is amended by adding Frankenmuth, Channel 229A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–22569 Filed 9–11–95; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 90

[PR Docket No. 92–235, DA 95–1839]

Freeze on the Filing of Applications for 12.5 KHz Offset Channels in the 421–430 MHz and 470–512 MHz Bands

AGENCY: Federal Communications Commission.

ACTION: Final rule; Clarification.

SUMMARY: On June 15, 1995, the Commission adopted a *Report and Order* that resolves many of the technical issues which have inhibited private land mobile radio (PLMR) users from employing the most spectrally efficient technologies. This document clarifies the June 15, 1995 *Report and Order* so that license applications on frequencies 12.5 kHz removed from any channel available under the former rules in the 421–430 MHz and 470–512 MHz frequency bands will not be accepted for filing until issues are resolved relative to proper frequency coordination. Upon the resolution of these issues, the Commission will notify the public as to the lifting of the freeze.

EFFECTIVE DATE: August 22, 1995.

FOR FURTHER INFORMATION CONTACT: Ira Keltz of the Wireless Telecommunications Bureau at (202) 418–0616.

SUPPLEMENTARY INFORMATION: On June 15, 1995, the Commission adopted a *Report and Order,* PR Docket 92–235, FCC 95–255 (60 FR 37152, July 19, 1995), to promote more efficient use of the private land mobile radio (PLMR) spectrum in the 150–174 MHz VHF band, and in the 421–430 MHz, 450–470 MHz, and 470–512 MHz UHF bands. In the *Report and Order,* the Commission recognized the need for time to develop frequency coordination standards for the new narrowband channel plans. It stated that all new channels 7.5 kHz removed from any channel available in the 150–174 MHz band under the former rules, and those channels 6.25 kHz removed from any channel available in the 421–512 MHz UHF bands under the former rules, would not be available for licensing until August 18, 1996. *See Report and Order,* paragraph 41. Consistent with comments of the PLMR community, however, the Commission concluded that coordination and assignments on the new channels 12.5 kHz removed in the UHF band could proceed.

On August 11, 1995, the Bureau granted a request by Hewlett-Packard Company (HP) to freeze the filing of new high-powered stations on 12.5 kHz offset channels in the 450–470 MHz band (60 FR 43720, August 23, 1995). On that same day, August 11, the Land Mobile Communications Council (LMCC) submitted a request to stay all assignments on the new channels in the VHF 150–174 MHz band and the UHF 421–430, 450–470, and 470–512 MHz bands. On August 17, LMCC provided supplemental information relating to this request. LMCC notes that the *Report and Order* created a complex new PLMR environment with a wide variety of operational systems, including analog and digital, trunked and conventional, older wideband and newer narrowband, and high and low-power stations. LMCC contends that at this time, the frequency coordinators do not have the information to make informed frequency recommendations regarding the assignment of the new channels.

In the *Report and Order,* we decided not to accept applications for new channels 7.5 kHz removed from any channel in the VHF band and 6.25 kHz removed from any channel in the 421–512 MHz UHF band pending the development of standards. The Bureau now also believes that the public interest will be served by giving the land mobile community additional time to develop standards for 12.5 kHz offset channels in the 421–430 MHz and 470–512 MHz UHF bands. Therefore, we are expanding the freeze granted on August 11 to include all new frequencies that are 12.5 kHz removed from any frequency available in the 421–430 MHz and 470–512 MHz bands under the former rules. As with our freeze on applications for high-powered stations on the 450–470 MHz offset channels, this freeze will be in effect until the issues related to proper coordination are resolved. Upon resolution of these issues, we will notify the public of the lifting of the freeze on these channels.

The imposition of the freeze is procedural in nature and, therefore, is not subject to the notice and comment, and effective date requirements of the Administrative Procedure Act (APA) (5 U.S.C. § 553). See *Neighborhood TV Co., Inc.* v. *FCC,* 742 F.2d 629 (D.C. Cir. 1984), *Buckeye Cablevision, Inc.,* v. *United States,* 438 F.2D 948 (6th Cir. 1971), and *Kessler* v. *FCC,* 326 F.2d 673 (D.C. Cir. 1963). Furthermore, good cause exists for this exception to the APA's notice and comment, and effective date requirements, because it would be impractical, unnecessary, and

contrary to the public interest if the Commission did not act to protect the PLMR spectrum from potential harmful interference. This action is effective August 22, 1995.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–22293 Filed 9–11–95; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF ENERGY

48 CFR Chapter 9

Acquisition Regulation; Regulatory Reduction

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) today issues a final rule to amend the Department of Energy Acquisition Regulation (DEAR) in its continuing effort to achieve the goals of several Executive Orders (EO), including: EO 12861, Elimination of One-Half of Executive Branch Internal Regulations; EO 12931, Federal Procurement Reform; and EO 12866, Regulatory Planning and Review. This rule deletes existing regulatory material that has been determined to be unnecessary. Specific material deleted from the DEAR is summarized in the ''Section-by-Section Analysis'' appearing later in this document.

EFFECTIVE DATE: This final rule will be effective October 12, 1995.

FOR FURTHER INFORMATION CONTACT: Kevin M. Smith, Office of Policy (HR–51), Office of Procurement and Assistance Management, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 586–8189.

SUPPLEMENTARY INFORMATION:

I. Background

Executive Order (EO) 12861, dated September 11, 1993, Elimination of One-Half of Executive Branch Internal Regulations, was issued by the President to streamline Government operations, improve productivity, and improve customer service. EO 12931, dated October 13, 1994, Federal Procurement Reform, calls for significant changes to make the Government procurement process more effective and efficient. EO 12866, dated September 30, 1993, Regulatory Planning and Review, requires agencies to review regulations to improve effectiveness and to reduce regulatory burden. This rule eliminates existing regulatory material that is unnecessary. In promulgating this rule, the Department will further the objectives of the EOs by reducing the volume of the DEAR; streamlining operations; reducing constraints, prescriptive requirements, and administrative processes; making requirements outcome oriented vs. process oriented; and, defining roles and responsibilities at the lowest appropriate level within the procurement organization by lowering certain responsibilities from the Head of the Contracting Activity to the contracting officer. The DEAR coverage removed includes material that is for informational purposes only and nonregulatory in nature; internal guidance and procedures; regulations that constrain the Department's own procuring activities; coverage that is more restrictive than the Federal Acquisition Regulation (FAR); and coverage that is repetitive of the FAR or of other regulations. A Notice of Proposed Rulemaking was published in the **Federal Register** on June 8, 1995 (60 FR 30258). Interested persons were invited to participate in this rulemaking by submitting data, views or arguments with respect to the DEAR amendments set forth in the Notice of Proposed Rulemaking. The public comment period closed on August 7, 1995, a period of 60 days. During that period, no comments were received by DOE.

II. Section-by-Section Analysis

The following sections of the DEAR are eliminated:

1. Section 901.103, second sentence, addressing the applicability of the DEAR to procurements using nonappropriated funds; this is recommended guidance and is nonregulatory in nature.

2. Subsection 901.103–70, identifying those types of actions excluded from the scope of the DEAR; this is for informational purposes only and is nonregulatory in nature.

3. Subsection 901.104–3, third sentence of paragraph (a), and paragraph (b), identifying distribution procedures of the DEAR; this is for informational purposes only and is nonregulatory in nature.

4. Section 901.170, explaining references to organizations within DOE; this is for informational purposes only and is nonregulatory in nature.

5. Subsection 901.301–71, addressing the amendment procedure; this is internal procedural information and is nonregulatory in nature.

6. Subsection 901.301–72, paragraphs (a), (b), and (c), detailing other issuances related to acquisition; this is for informational purposes only and is nonregulatory in nature.

7. Subsection 901.601–70, prescribing the use of internal controls for DOE activities; this is internal oversight procedure and is nonregulatory in nature.

8. Subsection 901.603–70, addressing modification to existing contracting officer authority; this is internal oversight procedure and is nonregulatory in nature.

9. Subsection 901.603–71, addressing the responsibility of other Government personnel; this is internal oversight procedure and is nonregulatory in nature.

10. Subsection 901.603–72, paragraph (b), addressing contracting officer subordinates; this is for informational purposes only and is nonregulatory in nature.

11. Subpart 902.1, providing definitions; this is for informational purposes only and is nonregulatory in nature.

12. Subsection 903.101–3, last four sentences, requiring a standards of conduct notebook to be maintained at all contracting activities; this is unduly constrictive oversight of the Department's contracting offices.

13. Section 904.402, paragraph (b), second and third sentences, and paragraphs (c) through (k), providing cross-reference information on security issues; this is for informational purposes only and is nonregulatory in nature.

14. Section 904.403, providing cross-reference information on restricted data; this is for informational purposes only and is nonregulatory in nature.

15. Section 904.601, providing information on contract reporting; this is for informational purposes only and is nonregulatory in nature.

16. Subsection 904.601–70, providing information on contract reporting; this is for informational purposes only and is nonregulatory in nature.

17. Subsection 904.601–71, paragraphs (a) and (b), providing information on contract reporting; this is for informational purposes only and is nonregulatory in nature.

18. Section 904.702, paragraph (b), second sentence, explaining the need for longer retention periods of certain

records; this is for informational purposes only and is nonregulatory in nature.

19. Subpart 905.2, addressing research and development advance notices; coverage at FAR 5.205 is sufficient.

20. Subpart 905.3, providing cross-reference information on notices of awards; this is for informational purposes only and is nonregulatory in nature.

21. Subsection 906.303–1, first sentence, which references FAR justification requirements for other than full and open competition; coverage at FAR 6.303–1 is sufficient.

22. Subpart 907.1, addressing acquisition plans; coverage at FAR 7.102 is sufficient.

23. Subpart 907.4, addressing Lease or Purchase requirements; coverage at FAR 7.4 and Federal Property Management Regulation (FPMR) 101–25.5 is sufficient.

24. Section 908.802, last sentence, addressing forms and instructions to contractors on the acquisition of printing and related supplies; this is procedural information that is already addressed within the section.

25. Subpart 908.70, addressing the use of excess materials from General Services Administration inventories; this is internal procedural information and is nonregulatory in nature.

26. Subpart 908.72, addressing Nevada Test Site support services; this is site-specific policy and is not appropriate for DOE-wide regulations.

27. Section 909.404, addressing debarment, suspension and ineligibility procedures; the separate DOE List of Debarred, Suspended, Ineligible and Voluntarily Excluded Awardees is no longer maintained.

28. Part 910, addressing specifications, standards and other purchase descriptions; this is internal oversight procedure and is nonregulatory in nature.

29. Subpart 912.5, addressing approval of stop work orders; this requirement is more restrictive than the requirement at FAR 12.503(b).

30. Subsection 913.505–3, addressing the use of SF 44's; the coverage at FAR 13.505–3 is sufficient.

31. Subpart 914.2, addressing solicitation of bids; this is for informational purposes only and is nonregulatory in nature.

32. Section 914.401, addressing the opening and receipt of bids; the coverage at FAR 14.401 is sufficient.

33. Subsection 914.402–1, addressing unclassified bids; the coverage at FAR 14.402–1 is sufficient.

34. Subsection 915.406–5, addressing representations and instructions; the coverage at FAR 15.406–5 is sufficient.

35. Section 915.610, addressing written or oral discussions; the coverage at FAR 15.610 is sufficient.

36. Section 915.801, providing a definition of field pricing support; the coverage at FAR 15.801 is sufficient.

37. Subsection 915.804–8, prescribing the use of FAR clauses; the coverage at FAR 15.804–8 is sufficient.

38. Subsection 915.804–70, addressing the submission of uncertified cost or pricing data; the coverage at FAR 15.804–6 is sufficient.

39. Subsection 915.805–70, paragraphs (a), (b), (c), and (f), addressing the use of audits; this is for informational purposes only and is nonregulatory in nature.

40. Section 915.807, addressing prenegotiation plans; coverage at FAR 15.807 is sufficient.

41. Section 915.808, addressing the price negotiation memorandum; coverage at FAR 15.808 is sufficient.

42. Section 916.207, addressing approval for the use of firm-fixed-price, level-of-effort contracts; this requirement is more restrictive than the requirement at FAR 16.207.

43. and 44. Section 916.303, providing a cross-reference within DEAR; this is for informational purposes only and is nonregulatory in nature.

45. Subpart 916.6 addressing letter contract definitization and funding requirements; these requirements are more restrictive than the requirements at FAR 16.603–2.

46. Subsection 919.705–2, addressing subcontracting plans; coverage at FAR 19.705–2 is sufficient.

47. Subsection 919.705–5, addressing awards involving subcontracting plans; coverage at FAR 19.705–5 is sufficient.

48. Section 919.708, addressing the use of incentives for subcontracting; this is more restrictive than the requirement at FAR 19.708(c).

49. Part 920, addressing labor surplus area concerns; coverage at FAR Part 20 is sufficient.

50. Subpart 922.4, addressing construction contract labor standards; coverage at FAR 22.4 is sufficient.

51. Part 924, providing cross-reference information on protection of privacy and Freedom of Information policies; this is for informational purposes only and is nonregulatory in nature.

52. Subpart 925.5, addressing payment in foreign currency; coverage at FAR 25.5 is sufficient.

53. Subsection 928.103–2, addressing the need for performance bonds; coverage at FAR 28.103–2 is sufficient.

54. Subpart 928.2, addressing sureties; coverage at FAR 28.2 is sufficient.

55. Subpart 933.2, addressing the contracting officer's written findings in a dispute; coverage at FAR 33.211 is sufficient.

56. Section 935.007, providing a cross-reference to Program Research and Development Announcements; this is for informational purposes only and is nonregulatory in nature.

57. Section 935.015, providing a cross-reference to special research contracts coverage; coverage on that subject was removed in a prior rulemaking and this section is no longer necessary.

58. Section 936.202, paragraphs (a) and (b), addressing specifications for construction contracts; FAR coverage at 36.202 is sufficient.

59. Subpart 937.2, providing a cross-reference to internal directives on consulting services; this is for informational purposes only and is nonregulatory in nature.

60. Section 937.7010, addressing protective services; this is for informational purposes only and is nonregulatory in nature.

61. Section 937.7020, addressing continuity of protective services; this is for informational purposes only and is nonregulatory in nature.

62. Section 937.7030, addressing continuity of protective services; this is for informational purposes only and is nonregulatory in nature.

63. Section 942.000 addressing post award activity; this is for informational purposes only and is nonregulatory in nature.

64. Section 942.001, addressing contract administration; this is for informational purposes only and is nonregulatory in nature.

65. Section 942.002, addressing monitoring of contracts; coverage at FAR Part 42 is sufficient.

66. Section 942.003, providing an explanation of organizations that perform post-award contract management functions; this is for informational purposes only and is nonregulatory in nature.

67. Subpart 942.1, providing an explanation of cross-servicing contract management activity; this is for informational purposes only and is nonregulatory in nature.

68. Subpart 942.2, addressing the reporting of contract administration assignment; this is internal procedural information and is nonregulatory in nature.

69. Section 942.708, addressing quick closeout procedures; this requirement is more restrictive than the requirement at FAR 42.708.

70. Subpart 942.14, addressing traffic and transportation management; this is internal procedural information and is nonregulatory in nature.

71. Part 943 addressing the extension of contracts resulting from unsolicited proposals and the use of forms; this is internal procedural information and is nonregulatory in nature.

72. Subpart 944.1, providing definitions; this is for informational purposes only and is nonregulatory in nature.

73. Subpart 944.2, addressing consent to subcontract; coverage at FAR 44.2 is sufficient.

74. Subsection 945.104–70, addressing the review and correction of contractor property management systems; coverage in the DOE Property Management Regulations at 41 CFR 109–1.52 is sufficient.

75. Section 945.304, providing cross-references on motor vehicle policies; this is for informational purposes only and is nonregulatory in nature.

76. Section 945.501, providing definitions; this is for informational purposes only and is nonregulatory in nature.

77. Subsection 945.502–70, addressing physical protection of property; coverage at FAR 45.5 and in the DOE Property Management Regulations at 41 CFR 109–1.51 is sufficient.

78. Subsection 945.502–71, addressing control of sensitive items of property; coverage at FAR 45.5 and in the DOE Property Management Regulations at 41 CFR 109–1.51 is sufficient.

79. Subsection 945.502–72, addressing the management of precious metals; coverage in the DOE Property Management Regulations at 41 CFR 109–27.53 is sufficient.

80. Section 945.508, specifying the frequency of physical inventories; coverage in the DOE Property Management Regulations at 41 CFR 109–1.51 is sufficient.

81. Section 945.570, addressing motor vehicle and aircraft management; coverage at FAR 45.304 and in the DOE Property Management Regulations at 41 CFR 109–38 is sufficient.

82. Subsection 945.570–1, classifying types of motor vehicles; this is for informational purposes only and is nonregulatory in nature.

83. Subsection 945.570–3, addressing the selection of type of motor vehicle; coverage in the DOE Property Management Regulations at 41 CFR 109–38 is sufficient.

84. Subsection 945.570–4, addressing the identification of motor vehicles; coverage in the DOE Property Management Regulations at 41 CFR 109–38 is sufficient.

85. Subsection 945.570–5, addressing the utilization of motor vehicles; coverage in the DOE Property Management Regulations at 41 CFR 109–38 is sufficient.

86. Subsection 945.570–6, addressing the maintenance of motor vehicles; coverage in the DOE Property Management Regulations at 41 CFR 109–38 is sufficient.

87. Subsection 945.570–9, addressing the purchase and use of aircraft; coverage in the DOE Property Management Regulations at 41 CFR 109–38 is sufficient.

88. Subpart 947.1, addressing transportation insurance and cost-reimbursement contracts; the coverage at FAR 47.1 is sufficient.

89. Subsection 949.108–4, addressing authorization for subcontract settlements; this requirement is more restrictive than the requirement at FAR 49.108–4.

90. Subsection 949.108–8, addressing the assignment of rights under subcontracts; this requirement is more restrictive than the requirement at FAR 49.108–8.

91. Subsection 949.112–1, addressing partial payments; this requirement is more restrictive than the requirement at FAR 49.112–1.

92. Subpart 949.2, addressing the submission of settlement proposals and the bases for settlement proposals; these requirements are more restrictive than the requirements at FAR 49.2.

93. Subpart 949.3, addressing the submission of settlement proposals; this requirement is more restrictive than the requirement at FAR 49.3.

94. Subpart 951.2, addressing contractor use of interagency motor pool vehicles; the coverage at FAR 51.2 is sufficient.

95. Section 951.7000, addressing contractor travel discounts; this is for informational purposes only and is nonregulatory in nature.

96. Section 951.7001, addressing contractor use of Government travel discounts; this is for informational purposes only and is nonregulatory in nature.

97. Subpart 971.2, prescribing contracting activity review requirements; this is unduly constrictive oversight of the Department's contracting offices.

98. Subpart 971.3, addressing procurement management system reviews; these reviews are no longer performed within the Department.

III. Procedural Requirements

A. Review Under Executive Order 12866

This regulatory action has been determined not to be a ''significant regulatory action'' under Executive Order 12866, ''Regulatory Planning and Review,'' (58 FR 51735, October 4, 1993). Accordingly, this action was not subject to review, under that Executive Order, by the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB).

B. Review Under Executive Order 12778

Section 2 of Executive Order 12778 instructs each agency to adhere to certain requirements in promulgating new regulations and reviewing existing regulations. These requirements, set forth in sections 2(a) and (b)(2), include eliminating drafting errors and needless ambiguity, drafting the regulations to minimize litigation, providing clear and certain legal standards for affected legal conduct, and promoting simplification and burden reduction. Agencies are also instructed to make every reasonable effort to ensure that the regulation specifies clearly any preemptive effect, effect on existing Federal law or regulation, and retroactive effect; describes any administrative proceedings to be available prior to judicial review and any provisions for the exhaustion of such administrative proceedings; and defines key terms. DOE certifies that this rule meets the requirements of sections 2(a) and (b) of Executive Order 12778.

C. Review Under the Regulatory Flexibility Act

This rule was reviewed under the Regulatory Flexibility Act of 1980, Pub. L. 96–354, which requires preparation of a regulatory flexibility analysis for any rule that is likely to have a significant economic impact on a substantial number of small entities. This rule will have no impact on interest rates, tax policies or liabilities, the cost of goods or services, or other direct economic factors. It will also not have any indirect economic consequences such as changed construction rates. DOE certifies that this rule will not have a significant economic impact on a substantial number of small entities and, therefore, no regulatory flexibility analysis has been prepared.

D. Review Under the Paperwork Reduction Act

No new information collection or recordkeeping requirements are imposed by this rule. Accordingly, no OMB clearance is required under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, et seq.).

E. Review Under Executive Order 12612

Executive Order 12612, entitled ''Federalism,'' 52 FR 41685 (October 30,

1987), requires that regulations, rules, legislation, and any other policy actions be reviewed for any substantial direct effects on States, on the relationship between the Federal Government and the States, or in the distribution of power and responsibilities among various levels of government. If there are sufficient substantial direct effects, then the Executive Order requires preparation of a federalism assessment to be used in all decisions involved in promulgating and implementing a policy action. DOE has determined that this rule will not have a substantial direct effect on the institutional interests or traditional functions of States.

F. Review Under the National Environmental Policy Act

Pursuant to the Council on Environmental Quality Regulations (40 CFR 1500–1508), the Department has established guidelines for its compliance with the provisions of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321, et seq.). Pursuant to Appendix A of Subpart D of 10 CFR 1021, National Environmental Policy Act Implementing Procedures (Categorical Exclusion A6), DOE has determined that this rule is categorically excluded from the need to prepare an environmental impact statement or environmental assessment.

G. Public Hearing Determination

DOE has concluded that this rule does not involve any significant issues of law or fact. Therefore, consistent with 5 U.S.C. 553, DOE has not scheduled a public hearing.

List of Subjects in 48 CFR Parts 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 912, 913, 914, 915, 916, 919, 920, 922, 924, 925, 928, 933, 935, 936, 937, 942, 943, 944, 945, 947, 949, 951, and 971

Government procurement.

Issued in Washington, D.C., on August 31, 1995.

Richard H. Hopf,

Deputy Assistant Secretary for Procurement and Assistance Management.

For the reasons set out in the preamble, Chapter 9 of Title 48 of the Code of Federal Regulations is amended as set forth below.

PART 901—FEDERAL ACQUISITION REGULATIONS SYSTEM

1. The authority citation for Parts 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 912, 913, 914, 915, 916, 919, 920, 922, 924, 925, 928, 933, 935, 936, 937, 942, 943, 944, 945, 947, 949, 951, and 971 continues to read as follows:

Authority: 42 U.S.C. 7254; 40 U.S.C. 486(c).

901.103 [Amended]

2. Section 901.103 is amended by removing the second sentence.

901.103–70 [Removed]

3. Subsection 901.103–70 is removed.

901.104–3 [Amended]

4. Subsection 901.104–3 is amended by removing the third sentence of paragraph (a), and by removing paragraph (b) and the paragraph (a) designation.

901.170 [Removed]

5. Section 901.170 is removed.

901.301–71 [Removed]

6. Subsection 901.301–71 is removed.

901.301–72 [Amended]

7. Subsection 901.301–72 is amended by removing paragraphs (a), (b), and (c).

901.601–70 [Removed]

8. Subsection 901.601–70 is removed.

901.603–70 [Removed]

9. Subsection 901.603–70 is removed.

901.603–71 [Removed]

10. Subsection 901.603–71 is removed.

901.603–72 [Amended]

11. Subsection 901.603–72 is amended by removing paragraph (b) and the paragraph (a) designation.

PART 902—DEFINITIONS OF WORDS AND TERMS

902.1 [Removed]

12. Subpart 902.1 is removed.

PART 903—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

903.101–3 [Amended]

13. Subsection 903.101–3 is amended by removing the second through fifth sentences.

PART 904—ADMINISTRATIVE MATTERS

904.402 [Amended]

14. Section 904.402 is amended in paragraph (b) by removing the second and third sentences, and by removing paragraphs (c), (d), and (k).

904.403 [Removed]

15. Section 904.403 is removed.

904.601 [Removed]

16. Section 904.601 is removed.

904.601–70 [Removed]

17. Subsection 904.601–70 is removed.

904.601–71 [Amended]

18. Subsection 904.601–71 is amended by removing paragraphs (a) and (b), and the paragraph (c) designation.

904.702 [Amended]

19. Section 904.702 is amended in paragraph (b) by removing the second sentence.

PART 905—PUBLICIZING CONTRACT ACTIONS

905.2 [Removed]

20. Subpart 905.2 is removed.

905.3 [Removed]

21. Subpart 905.3 is removed.

PART 906—COMPETITION REQUIREMENTS

906.303–1 [Amended]

22. Subsection 906.303–1 is amended in paragraph (a) by removing the first sentence.

PART 907—ACQUISITION PLANNING

907.1 [Removed]

23. Subpart 907.1 is removed.

907.4 [Removed]

24. Subpart 907.4 is removed.

PART 908—REQUIRED SOURCES OF SUPPLIES AND SERVICES

908.802 [Amended]

25. Section 908.802 is amended in paragraph (b) by removing the last sentence.

908.70 [Removed]

26. Subpart 908.70 is removed.

908.72 [Removed]

27. Subpart 908.72 is removed.

PART 909—CONTRACTOR QUALIFICATIONS

909.404 [Removed]

28. Section 909.404 is removed.

PART 910—SPECIFICATIONS, STANDARDS, AND OTHER PURCHASE DESCRIPTIONS [REMOVED]

29. Part 910 is removed.

PART 912—CONTRACT DELIVERY OR PERFORMANCE

912.5 [Removed]

30. Subpart 912.5 is removed.

PART 913—SMALL PURCHASE AND OTHER SIMPLIFIED PURCHASE PROCEDURES

913.505–3 [Removed]

31. Subsection 913.505–3 is removed.

PART 914—SEALED BIDDING

914.2 [Removed]

32. Subpart 914.2 is removed.

914.401 [Removed]

33. Section 914.401 is removed.

914.402–1 [Removed]

34. Subsection 914.402–1 is removed.

PART 915—CONTRACTING BY NEGOTIATION

915.406–5 [Removed]

35. Subsection 915.406–5 is removed.

915.610 [Removed]

36. Section 915.610 is removed.

915.801 [Removed]

37. Section 915.801 is removed.

915.804–8 [Removed]

38. Subsection 915.804–8 is removed.

915.804–70 [Removed]

39. Subsection 915.804–70 is removed.

915.805–70 [Amended]

40. Subsection 915.805–70 is amended by removing paragraphs (a), (b), (c), and (f), and redesignating paragraphs (d) and (e) as paragraphs (a) and (b).

915.807 [Removed]

41. Section 915.807 is removed.

915.808 [Removed]

42. Section 915.808 is removed.

PART 916—TYPES OF CONTRACTS

916.207 [Removed]

43. and 44. Section 916.207 is removed.

916.303 [Removed]

45. Section 916.303 is removed.

916.6 [Removed]

46. Subpart 916.6 is removed.

PART 919—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

919.705–2 [Removed]

47. Subsection 919.705–2 is removed.

919.705–5 [Removed]

48. Subsection 919.705–5 is removed.

919.708 [Removed]

49. Section 919.708 is removed.

PART 920—LABOR SURPLUS AREA CONCERNS [REMOVED]

50. Part 920 is removed.

PART 922—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITION

922.4 [Removed]

51. Subpart 922.4 is removed.

PART 924—PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION [REMOVED]

52. Part 924 is removed.

PART 925—FOREIGN ACQUISITION

925.5 [Removed]

53. Subpart 925.5 is removed.

PART 928—BONDS AND INSURANCE

928.103–2 [Removed]

54. Subsection 928.103–2 is removed.

928.2 [Removed]

55. Subpart 928.2 is removed.

PART 933—PROTESTS, DISPUTES AND APPEALS

933.2 [Removed]

56. Subpart 933.2 is removed.

PART 935—RESEARCH AND DEVELOPMENT CONTRACTING

935.007 [Removed]

57. Section 935.007 is removed.

935.015 [Removed]

58. Section 935.015 is removed.

PART 936—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

936.202 [Amended]

59. Section 936.202 is amended by removing paragraphs (a) and (b) and redesiginating paragraphs (c) through (j) as paragraphs (a) through (h), respectively.

PART 937—SERVICE CONTRACTING

937.2 [Removed]

60. Subpart 937.2 is removed.

937.7010 [Removed]

61. Section 937.7010 is removed.

937.7020 [Removed]

62. Section 937.7020 is removed.

937.7030 [Removed]

63. Section 937.7030 is removed.

PART 942—CONTRACT ADMINISTRATION

942.000 [Removed]

64. Section 942.000 is removed.

942.001 [Removed]

65. Section 942.001 is removed.

942.002 [Removed]

66. Section 942.002 is removed.

942.003 [Removed]

67. Section 942.003 is removed.

942.1 [Removed]

68. Subpart 942.1 is removed.

942.2 [Removed]

69. Subpart 942.2 is removed.

942.708 [Removed]

70. Section 942.708 is removed.

942.14 [Removed]

71. Subpart 942.14 is removed.

PART 943—CONTRACT MODIFICATIONS [Removed]

72. Part 943 is removed.

PART 944—SUBCONTRACTING POLICIES AND PROCEDURES

944.1 [Removed]

73. Subpart 944.1 is removed.

944.2 [Removed]

74. Subpart 944.2 is removed.

PART 945—GOVERNMENT PROPERTY

945.104–70 [Removed]

75. Subsection 945.104–70 is removed.

945.304 [Removed]

76. Section 945.304 is removed.

945.501 [Removed]

77. Section 945.501 is removed.

945.502–70 [Removed]

78. Subsection 945.502–70 is removed.

945.502–71 [Removed]

79. Subsection 945.502–71 is removed.

945.502–72 [Removed]

80. Subsection 945.502–72 is removed.

945.508 [Removed]

81. Section 945.508 is removed.

945.570 [Removed]

82. Section 945.570 is removed.

945.570–1 [Removed]

83. Subsection 945.570–1 is removed.

945.570–3 [Removed]

84. Subsection 945.570–3 is removed.

945.570–4 [Removed]

85. Subsection 945.570–4 is removed.

945.570–5 [Removed]

86. Subsection 945.570–5 is removed.

945.570–6 [Removed]

87. Subsection 945.570–6 is removed.

945.570–9 [Removed]

88. Subsection 945.570–9 is removed.

PART 947—TRANSPORTATION

947.1 [Removed]

89. Subpart 947.1 is removed.

PART 949—TERMINATION OF CONTRACTS

949.108–4 [Removed]

90. Subsection 949.108–4 is removed.

949.108–8 [Removed]

91. Subsection 949.108–8 is removed.

949.112–1 [Removed]

92. Subsection 949.112–1 is removed.

949.2 [Removed]

93. Subpart 949.2 is removed.

949.3 [Removed]

94. Subpart 949.3 is removed.

PART 951—USE OF GOVERNMENT SOURCES BY CONTRACTORS

951.2 [Removed]

95. Subpart 951.2 is removed.

951.7000 [Removed]

96. Section 951.7000 is removed.

951.7001 [Removed]

97. Section 951.7001 is removed.

PART 971—REVIEW AND APPROVAL OF CONTRACT ACTIONS

971.2 [Removed]

98. Subpart 971.2 is removed.

971.3 [Removed]

99. Subpart 971.3 is removed.

[FR Doc. 95–22219 Filed 9–11–95; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF COMMERCE

48 CFR Parts 1301, 1302, 1304, 1305, 1306, 1307, 1308, 1309, 1314, 1315, 1316, 1317, 1319, 1322, 1324, 1325, 1331, 1332, 1333, 1334, 1336, 1337, 1342, and 1345

[Docket No. 950602146–5146–01]

RIN 0690–AA24

Commerce Acquisition Regulation; Removal of Provisions

AGENCY: Commerce.

ACTION: Final rule.

SUMMARY: The Department of Commerce hereby removes certain parts, subparts, and sections of the Commerce Acquisition Regulation concerning internal management. This action is taken in keeping with the goals of the National Performance Review and in order to comply with recent Executive Orders that address regulatory reforms.

EFFECTIVE DATE: September 12, 1995.

FOR FURTHER INFORMATION CONTACT:

Ms. Joyce Cavallini, 202–482–0202.

SUPPLEMENTARY INFORMATION: On March 4, 1995, as part of the President's Regulatory Reinvention Initiative, the President directed agencies to conduct a page-by-page review of all regulations and eliminate or revise those that are outdated or otherwise in need of reform. After conducting a review of the Commerce Acquisition Regulation (CAR), it was determined that the intended goal of certain portions of the CAR could be achieved in more efficient, less intrusive ways. The portions of the CAR being removed were internal management regulations that are not required by law and are not deemed to be regulatory in nature.

List of Subjects in 48 CFR Parts 1301, 1302, 1304, 1305, 1306, 1307, 1308, 1309, 1314, 1315, 1316, 1317, 1319, 1322, 1324, 1325, 1331, 1332, 1333, 1334, 1336, 1337, 1342, and 1345

Government procurement.

Shirl G. Kinney,

Procurement Executive.

For the reasons set forth in the preamble, Chapter 13 of Title 48 Code of Federal Regulations is amended as set forth below:

1. The authority citation for parts 1301, 1302, 1304, 1305, 1306, 1307, 1308, 1309, 1314, 1315, 1316, 1317, 1319, 1322, 1324, 1325, 1331, 1332, 1333, 1334, 1336, 1337, 1342, and 1345 continues to read as follows:

Authority: Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary of Commerce in Department Organization Order 10–5 and Department Administrative Order 208–2.

PART 1301—[AMENDED]

2. Part 1301 is amended by removing and reserving subparts 1301.2, 1301.3, 1301.4, and 1301.5.

3. Part 1301 is further amended by removing §§ 1301.601, 1301.601–70, 1301.601–71, 1301.603, and 1301.603–71, and 1301.603–70(a) (2) and (3) and redesignating paragraph (a)(4) as (a)(2).

PARTS 1302, 1304, 1305, 1306, 1307, and 1308—[REMOVED AND RESERVED]

4. Parts 1302, 1304, 1305, 1306, 1307, and 1308 are removed and reserved.

PART 1309—[AMENDED]

5. Part 1309 is amended by revising subpart 1309.4 to read as follows:

Subpart 1309.4—Debarment, Suspension and Ineligibility

1309.470–4 Procedures on debarment.

Decision making process. Upon receipt of a debarment recommendation, the Procurement Executive shall review all available evidence and shall promptly determine whether or not to proceed with debarment. The Procurement Executive may refer the matter to the Office of Inspector General for further investigation. After completion of any additional review or investigations, the Procurement Executive shall make a written determination. A copy of this determination shall be promptly sent to the initiating contracting office. (See FAR 9.406–3(b).)

1309.470–7 Procedures on suspension.

Decision making process. Procedures for the decision making process of suspensions are the same as those contained in 1309.470–4 except that an initial decision for suspension results in immediate suspension. (See FAR 9.407–3(b).)

PART 1314—[REMOVED AND RESERVED]

6. Part 1314 is removed and reserved.

PART 1315—[AMENDED]

7. Part 1315 is amended by removing § 1315.501; removing § 1315.504(a) and redesignating § 1315.504 (b) and (c) as (a) and (b), respectively; removing § 1315.506 (a), (b), and (c) and redesignating paragraphs (d), (e), (f), and (g) as (a), (b), (c), and (d) respectively; removing and reserving subpart § 1315.6; removing § 1315.804–3; and removing § 1315.805–70 (a) and (b) and redesignating paragraph (c) as (a).

PART 1316—[AMENDED]

8. Part 1316 is amended by removing and reserving subparts 1316.3 and 1316.6.

PART 1317—[AMENDED]

9. Part 1317 is amended by removing and reserving subparts 1317.4 and 1317.5.

PART 1319—[AMENDED]

10. Part 1319 is amended by removing §§ 1319.201, 1319.705–5, 1319.7001 and 1319.7002(b).

PARTS 1322, 1324, 1325, AND 1331—[REMOVED AND RESERVED]

11. Parts 1322, 1324, 1325, and 1331 are removed and reserved.

PART 1332—[AMENDED]

12. Part 1332 is amended by removing and reserving subparts 1332.4 and 1332.6.

PART 1333—[AMENDED]

13. Part 1333 is amended by removing §§ 1333.102, 1333.104(a) (3) and (4), 1333.104(f), 1333.105(a)(2), 1333.105(b), 1333.105(d), and 1333.209.

PART 1334—[REMOVED AND RESERVED]

14. Part 1334 is removed and reserved.

PART 1336—[AMENDED]

15. Part 1336 is amended by removing §§ 1336.602–4 and 1336.603.

PART 1337—[REMOVED AND RESERVED]

16. Part 1337 is removed and reserved.

PART 1342—[AMENDED]

17. Part 1342 is amended by removing § 1342.102–70 (c) and (d).

PART 1345—[REMOVED AND RESERVED]

18. Part 1345 is removed and reserved.

[FR Doc. 95–22559 Filed 9–11–95; 8:45 am]
BILLING CODE 3510–17–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1827 and 1852

[NFS Case 940013]

RIN 2700–AB72

NASA FAR Supplement; Assignment of Copyright in Software

AGENCY: Office of Procurement, National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This is a revision of the NASA FAR Supplement to allow the Contracting Officer to direct the contractor to claim copyright in computer software and assign the copyright to the Government or another party. Assignment to the Government can only be directed when the Contractor has not previously been granted permission to claim copyright on its own behalf. This is needed because existing contract clauses do not provide this authority for some types of contracts.

EFFECTIVE DATE: October 1, 1995.

FOR FURTHER INFORMATION CONTACT: Nina Lawrence, (202) 358–2424, or Tom Deback, (202) 358–0431.

SUPPLEMENTARY INFORMATION:

A. Background

NASA published a Proposed Rule on October 13, 1994 (59 FR 51936), amending the NASA FAR Supplement (NFS) to allow the Contracting Officer to direct the contractor to claim the copyright in computer software and assign the copyright to the Government or another party. Assignment to the Government can only be directed when the contractor has not previously been granted permission to claim copyright on its own behalf. NASA is publishing this Final Rule with some changes in the provisions set forth in the Proposed Rule, which reflect some of the comments received.

FAR clause 52.227–14, Rights in Data—General, as modified by the NFS, currently provides that a contractor may establish (assert) claim to copyright in software developed under the contract provided the contractor obtains the Contracting Officer's prior written permission. This revision will not restrict this right. However, if a contractor is not interested in claiming copyright, or developing the software, and is unwilling to assign the copyright to NASA or its designee, no copyright can be claimed for the software. In many, if not most, cases this does not matter. However, in some situations where further development of software is needed before the software can be marketed, the U.S. private sector may be unwilling to invest in developing and marketing the software without the availability of copyright protection. This revision will provide authority to acquire assignments of copyright in such situations.

It is NASA's intent to announce to the public the availability of licensable software and the criteria which will be utilized in selecting licensees. Exclusive and partially exclusive licenses will be granted only after public notice and opportunity to file written objections.

FAR 27.404(g)(3) authorizes agencies to include contractual requirements to assign copyright to the Government or another party. The FAR further directs that any such requirements established by agencies should be added to clause 52.227–14, Rights in Data—General. This authority is the same as is presently contained in FAR clause 52.227–17, Rights in Data—Special Works. That clause is specifically tailored for acquisitions where data is the main deliverable; it lacks many elements necessary in contracts involving a mix of deliverables. The proposed revision will result in a clause that more appropriately addresses NASA's needs in acquisitions involving mixed deliverables. Further, with the increased emphasis in recent years on promoting U.S. competitiveness and the commercialization of Government-generated technology, it is important that steps be taken to protect computer software that has a significant technology transfer value. The availability of copyright protection will enable NASA to enhance U.S. competitiveness and more effectively transfer valuable computer software technology.

This revision does not apply to or affect contracts for basic or applied research with a university or college (see NFS 1827.404(e)(1) or 1827.409(e)).

Comments on the Proposed Rule were received from four organizations, and a number of comments were duplicative in subject matter. Several comments related to the rights of contractors. One organization commented that the contractor assigning the copyright would not retain a copyright license, and that to avoid potentially becoming an infringer, the contractor would be motivated to seek the Contracting Officer's permission to claim the copyright. The authority to direct assignment of copyright is presently contained in FAR clause 52.227–17, Rights in Data—Special Works, which has been in use for many years. Contractors have not been motivated to request permission to claim copyright in order to avoid potential infringement, even though the clause provides that the contractor may use the data first produced only for the performance of the contract. Rather, contractors have requested permission to claim copyright for the purpose of further developing and/or commercializing the software.

Some commenters expressed concern that a contractor would not be given the opportunity to copyright software, or NASA would arbitrarily refuse to grant the contractor permission to copyright. The purpose of the revision proposed by NASA is to effect the further

development and/or commercialization of the software, and if the contractor has a plan for accomplishing such further development and/or commercialization, permission to copyright will be granted. NFS 1827.404(e)(2) sets forth guidelines covering when the Contracting Officer may, in consultation with the installation's patent or intellectual property counsel, grant the contractor permission to copyright, publish, or release to others computer software first produced in the performance of the contract. For example, permission to copyright will be granted if (i) the contractor has identified an existing commercial computer software product line, or proposes a new one, and states a positive intention of incorporating the computer software first produced under the contract into that line, either directly itself or through a licensee; or (ii) the contractor has made, or will be required to make, significant contributions to the development of the computer software by co-funding or by cost sharing, or by contributing resources.

Another group of comments related to the question of when copyright arises and use of the word ''establish'' in the proposed revision. There is no question that under 17 U.S.C. 102(a) ''copyright protection subsists * * * in original works of authorship fixed in any tangible medium of expression * * *'' and that under 17 U.S.C. 201, ownership of the copyright vest initially in the author or authors. However, it is also clear from the legislative history of the Copyright Act of 1976 that contract provisions can determine whether a contractor can claim copyright protection in data first produced under the contract. See the discussion of Section 105, U.S. Government works, in the legislative history of the Copyright Act of 1976, i.e., H.R. Report 94–1476, 94th Congress Second Session, pages 58–59 and S. Report 94–473, 94th Congress, First Session, pages 56–57. Both reports state: ''As the bill is written, the Government agency concerned could determine in each case whether to allow an independent contractor or grantee to secure copyright in works prepared in whole or in part with the use of Government funds.''

NASA is aware that use of the word ''establish'' presents difficulties, and, for the purpose of conformity with the copyright statute, has construed the word ''establish'' to mean ''assert''. NASA is taking this opportunity to revise the NFS so that if reflects copyright law by using ''assert'' in the Final Rule in lieu of ''establish,'' and by requiring in the NFS that a provision be added to the FAR Rights in Data—General and Special Works clauses which states that the word ''establish'' in those clauses shall be construed as meaning ''assert''.

Some comments related to the necessity for the revision, e.g., lack of evidence that the U.S. private sector is unwilling to invest in the software without copyright protection; vagueness of Proposed Rule's goals; and the availability of copyright protection for derivative works based on public domain software. NASA's goal is to more effectively transfer valuable computer software technology to the private sector thereby enhancing commercialization of Government-generated technology and U.S. competitiveness. Disseminating software to the public without restriction works well for many computer software products. However, it has been the experience of Federal agencies that in situations where further development of software is needed before the software can be marketed, the U.S. private sector is unwilling to invest in developing and marketing the software without copyright protection. The GAO in its June 1992 report, entitled ''Technology Transfer: Copyright Law Constrains Commercialization of Some Federal Software'', concluded that although many factors affect a company's decision whether to invest in Federal software, lack of copyright protection for that software is a consideration. The principle is well established with respect to the U.S. general public that technology which is freely available to everyone is often not of interest to anyone where considerable risk capital is required to achieve commercialization.

The Final Rule will provide the flexibility needed to ensure the transfer and commercialization of valuable computer software in situations where the contractor is not interested in further development and commercialization of the software.

B. Executive Order 12866

The Office of Information and Regulatory Affairs has determined that this rule is significant under E.O. 12866. This regulation is needed on an urgent and compelling basis because valuable computer software developed under NASA contracts may become part of the public domain, and thereby lose its value, if the software is not copyrighted. Current regulations grant the contractor the right to request permission to claim copyright, but there is no procedure to force the contractor to exercise that right or to transfer the copyright to the Government. The regulation meets the need, i.e., provides protection for the software's value, by allowing NASA to direct the contractor to claim copyright and assign the copyright to NASA or another party. The potential costs for this regulatory action are limited to the nominal costs involved in claiming and transferring copyright. These costs may vary, but are estimated to be less than $100 per copyright, and it is anticipated that less than 10 contractors annually would each be required to incur this expense one time. Because the contracts under which valuable software is likely to be developed are usually cost-reimbursable research and development contracts, the costs for copyright and transfer would normally be charged to the Government. The potential benefits are the value of the protected software. This value cannot be measured, as it depends on future discoveries and developments. This value cannot be considered to be taken away from contractors, because it never belonged to them.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the NASA FAR Supplement do not impose any recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

D. Regulatory Flexibility Act

NASA certifies that this regulation will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

List of Subjects in 48 CFR Parts 1827 and 1852

Government procurement.

Tom Luedtke,

Deputy Associate Administrator for Procurement.

Accordingly, 48 CFR Parts 1827 and 1852 are amended as follows.

1. The authority citation for 48 CFR Parts 1827 and 1852 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

PART 1827—PATENTS, DATA, AND COPYRIGHTS

2. In section 1827.404, paragraphs (d)(1) and (e)(1) are revised and paragraphs (e)(4) and (e)(5) are added to read as follows:

1827.404 Basic rights in data clause.

* * * * *

(d) * * *

(1) The Contracting Officer shall consult with the installation's Patent or Intellectual Property Counsel before granting in accordance with FAR 27.404(f)(1)(ii) permission for a contractor to claim copyright subsisting in data, other than computer software, first produced under the contract. For copyright of computer software first produced under the contract, see paragraph (e) of this section.

(e) * * *

(1) Paragraph (3) (see 1827.409(e) and 1852.227–14) is to be added to paragraph (d) of the clause at FAR 52.227–14, Rights in Data—General, whenever that clause is used in any contract other than one for basic or applied research with a university or college. Paragraph (d)(3)(i) of the clause provides that the contractor may not assert claim to copyright, publish, or release to others computer software first produced in the performance of a contract without the contracting officer's prior written permission. This is in accordance with NASA policy and procedures for the distribution of computer software developed by NASA and its contractors.

* * * * *

(4) If the contractor has not been granted permission to copyright in accordance with paragraphs (e)(1) and (e)(2) of this section, paragraph (d)(3)(ii) of the clause at FAR 52.227–14, Rights in Data—General (as modified by 1852.227–14), enables NASA to direct the contractor to assert claim to copyright in computer software first produced under the contract and to assign, or obtain the assignment of, such copyright to the Government or its designee. The Contracting Officer may, in consultation with the installation patent or intellectual property counsel, so direct the contractor in situations where copyright protection is considered necessary in furtherance of agency mission objectives, needed to support specific agency programs, or necessary to meet statutory requirements.

(5) In order to insure consistency with copyright law, paragraph (d)(3)(iii) clarifies that the word ''establish'' in FAR 52.227–14, Rights in Data—General shall be construed as ''assert'' when used with reference to a claim to copyright.

* * * * *

3. In section 1827.405, paragraph (c) is added to read as follows:

1827.405 Other data rights provisions.

* * * * *

(c) *Production of special works.* Paragraph (f) of the clause at 1852.227–15 is to be added to the clause at FAR 52.227–17, Rights in Data—Special Works, whenever that clause is used in any NASA contract.

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. In section 1852.227–14, paragraph (3) of the addition to the FAR clause is redesignated as paragraph (3)(i) and new paragraphs (3)(ii) and (iii) are added as follows:

1852.227–14 Rights in Data—General.

* * * * *

(3)(i) * * *

(ii) If the Government desires to obtain copyright in computer software first produced in the performance of this contract and permission has not been granted as set forth in paragraph (d)(3)(i) of this clause, the Contracting Officer may direct the contractor to assert, or authorize the assertion of, claim to copyright in such data and to assign, or obtain the assignment of, such copyright to the Government or its designated assignee.

(iii) Whenever the word ''establish'' is used in this clause, with reference to a claim to copyright, it shall be construed to mean ''assert''.

(End of addition)

5. Section 1852.227–15 is added to Part 1852 to read as follows:

1852.227–15 Rights in Data—Special Works

As prescribed in 1827.405(c), add the following paragraph (f) to the basic clause at FAR 52.227–17:

(f) Whenever the words ''establish'' and ''establishment'' are used in this clause, with reference to a claim to copyright, they shall be construed to mean ''assert'' and ''assertion'', respectively.

(End of addition)

[FR Doc. 95–22573 Filed 9–11–95; 8:45 am]

BILLING CODE 7510–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 671, 672, 675, 676, and 677

[Docket No. 950508130–5171–02; I.D. 050195A]

RIN 0648–AH62

Limited Access Management of Federal Fisheries In and Off Alaska; Groundfish and Crab Fisheries Moratorium; Correction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; correction.

SUMMARY: This document contains corrections to the final rule (I.D. 050195A) that was published Thursday, August 10, 1995 (60 FR 40763). The rule imposes a temporary moratorium on the entry of new vessels into the groundfish fisheries under Federal jurisdiction in the Bering Sea and Aleutian Islands (BSAI) management area, the crab fisheries under Federal jurisdiction in the BSAI Area, and the groundfish fisheries under Federal jurisdiction in the Gulf of Alaska (GOA).

EFFECTIVE DATES: Effective September 11, 1995, through December 31, 1998, except for the amendments to §§ 671.4, 672.4, and 675.4, and §§ 676.3 and 676.4, which will become effective on January 1, 1996, through December 31, 1998; and the amendments to Figure 1 to part 677, § 677.4, and §§ 671.2, and 671.3, which are effective September 11, 1995.

FOR FURTHER INFORMATION CONTACT: Catherine Belli, 301-713-2341.

SUPPLEMENTARY INFORMATION:

Background

The final rule that is the subject of these corrections addresses fishery management problems caused by excess harvesting capacity or overcapitalization by establishing temporary entry controls until more permanent controls on harvesting capacity can be implemented. As published, the final rule contains typographical and editorial errors which are misleading and in need of correction. This document corrects those errors.

Correction of Publication

Accordingly, the publication on August 10, 1995 (60 FR 40763), of the final regulations (I.D. 050195A) that were the subject of FR Doc. 95–19344, is corrected as follows:

1. On page 40767, middle column, second full paragraph, line 22, is revised to read ''1988 through February 9, 1992, or a''.

2. On page 40771, third column, amendatory instruction number 6., line two is revised to read ''through December 31, 1998, § 672.3,''.

3. On page 40772, first column, amendatory instruction number 9., line two is revised to read ''through December 31, 1998, § 675.3,''.

4. On page 40773, first column, the term ''*Reconstruction*'' in the definitions is italicized.

Dated: September 1, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

[FR Doc. 95–22284 Filed 9–11–95; 8:45 am]

BILLING CODE 3510–22–F

50 CFR Part 675

[Docket No. 950206040–5040–01; I.D. 090595A]

Groundfish of the Bering Sea and Aleutian Islands Area; Apportionment of Reserve

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Apportionment of reserve; request for comments.

SUMMARY: NMFS is apportioning reserve to certain target species in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to allow for ongoing harvest and account for previous harvest of the total allowable catch (TAC).

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), September 7, 1995, until 12 midnight, A.l.t., December 31, 1995. Comments must be received at the address below no later than 4:30 p.m., A.l.t. September 22, 1995.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, 907–586-7228.

ADDRESSES: Comments should be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668. Attn: Lori Gravel.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the U.S. BSAI exclusive economic zone is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

The Director, Alaska Region, NMFS, has determined that the initial TACs specified for: ''Other rockfish'' in the Bering Sea subarea and rock sole and ''other flatfish'' in the BSAI need to be supplemented from the non-specific reserve in order to continue operations and account for prior harvest.

Therefore, in accordance with § 675.20(b), NMFS is apportioning from the reserve to TACs for the following species or species groups: In the Bering Sea subarea - 49 metric tons (mt) to ''other rockfish''; in the BSAI - 9,000 mt to rock sole, and 2,931 mt to ''other flatfish''.

These apportionments are consistent with § 675.20(a)(2)(i) and do not result in overfishing of a target species or the ''other species'' category, because the revised TACs are equal to or less than specifications of acceptable biological catch.

Classification

This action is taken under 50 CFR 675.20 and is exempt from review under E.O. 12866.

The Assistant Administrator for Fisheries, NOAA (AA), has determined, under section 553(d)(3) of the Administrative Procedure Act and 50 CFR 675.20(b)(2), that good cause exists for waiving the opportunity for prior public comment for this action. Fisheries are currently taking place that will be supplemented by this apportionment. Delaying the implementation of this action would be disruptive and costly to these ongoing operations. Under § 675.20(b)(2), interested persons are invited to submit written comments on these apportionments to the above address until September 22, 1995. To the extent that this action relieves a restriction, no delayed effectiveness period is necessary. In any case, for the reasons stated above, there is good cause to waive the delayed effectiveness period so that this action may take effect immediately.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 7, 1995.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–22658 Filed 9–7–95; 4:18 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 60, No. 176
Tuesday, September 12, 1995

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 50, 52, and 100

Nuclear Energy Institute

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Meeting: Cancellation.

SUMMARY: The Nuclear Regulatory Commission is cancelling the meeting scheduled for September 13, 1995 with the Nuclear Energy Institute and other industry representatives. This document cancels the meeting notice appearing in the **Federal Register** on August 23, 1995 (60 FR 43726). The meeting will be rescheduled at a future date.

DATES: To be determined.

FOR FURTHER INFORMATION CONTACT: Mr. Leonard Soffer, Accident Evaluation Branch, Office of Nuclear Regulatory Research, Nuclear Regulatory Commission, Washington, DC 20555. Telephone: (301) 415–6574.

Dated at Rockville, Maryland, this 8th day of September, 1995.

For the Nuclear Regulatory Commission.

Leonard Soffer,

Accident Evaluation Branch, Office of Nuclear Regulatory Research.

[FR Doc. 95–22702 Filed 9–11–95; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–40–AD]

Airworthiness Directives; Boeing Model 737 Series Airplanes Equipped With BFGoodrich Main Landing Gear Brake Assemblies

AGENCY: Federal Aviation Administration, DOT.

ACTION: Proposed rule; withdrawal.

SUMMARY: This action withdraws a notice of proposed rulemaking (NPRM) that proposed a new airworthiness directive (AD), applicable to certain Boeing Model 737 series airplanes. That action would have required inspection of certain brake assemblies to determine the part number of the torque plates, measurement of the amount of wear remaining on the brake wear pin indicator, and removal of brake assemblies on which misidentified torque plates were installed and replacement with serviceable brakes. Since the issuance of the NPRM, the Federal Aviation Administration (FAA) has received new data indicating that all misidentified torque plates have been removed from airplanes and spare part inventories. Accordingly, the proposed rule is withdrawn.

FOR FURTHER INFORMATION CONTACT: David M. Herron, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; 98055–4056; telephone (206) 227–2672; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add a new airworthiness directive (AD), applicable to certain Boeing Model 737 series airplanes, was published in the **Federal Register** as a Notice of Proposed Rulemaking (NPRM) on April 17, 1995 (60 FR 19181). The proposed rule would have required a one-time inspection of certain brake assemblies to determine the part number of the torque plates, measurement of the amount of wear remaining on the brake wear pin indicator, and removal of brake assemblies on which misidentified torque plates were installed and replacement with serviceable brakes. That action was prompted by a report indicating that certain torque plates were misidentified and installed on certain brake assemblies. The proposed actions were intended to prevent decreased brake performance during a rejected takeoff or landing when these brakes are at or near their indicated wear limit.

Since the issuance of that NPRM, Boeing and BFGoodrich have initiated an aggressive inspection program to ensure that the misidentified torque plates are removed from airplanes and spare part inventories. These manufacturers have provided substantiating data to the FAA to account for all misidentified torque plates. (Boeing submitted a letter dated May 3, 1995, and BFGoodrich transmitted a fax memorandum dated May 17, 1995, which account for each misidentified torque plate.)

Based upon the FAA's review of the data submitted by these manufacturers, the FAA has determined that the previously identified unsafe condition no longer exists. Accordingly, the proposed rule is hereby withdrawn.

Withdrawal of this notice of proposed rulemaking constitutes only such action, and does not preclude the agency from issuing another notice in the future, nor does it commit the agency to any course of action in the future.

Since this action only withdraws a notice of proposed rulemaking, it is neither a proposed nor a final rule and therefore, is not covered under Executive Order 12866, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Withdrawal

Accordingly, the notice of proposed rulemaking, Docket 95–NM–40–AD, published in the **Federal Register** on April 17, 1995 (60 FR 19181), is withdrawn.

Issued in Renton, Washington, on September 6, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–22592 Filed 9–11–95; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 916

[SPATS No. KS–016–FOR]

Kansas Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Kansas regulatory program (hereinafter the ''Kansas program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of modifications to the Kansas revegetation guidelines pertaining to requirements for determining the productivity success of trees and shrubs. The amendment is intended to improve operational efficiency.

DATES: Written comments must be received by 4:00 p.m., c.d.t., October 12, 1995. If requested, a public hearing on the proposed amendment will be held on October 10, 1995. Requests to speak at the hearing must be received by 4:00 p.m., c.d.t., on September 27, 1995.

ADDRESSES: Written comments and requests to speak at the hearing should be mailed or hand delivered to Mr. Robert L. Markey, Acting Director, Kansas City Field Office, at the first address listed below.

Copies of the Kansas program, the proposed amendment, a listing of any scheduled public hearings, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Kansas City Field Office.

Robert L. Markey, Acting Director, Kansas City Field Office, Office of Surface Mining Reclamation and Enforcement, 934 Wyandotte Street, Room 500, Kansas City, Missouri, 64105, Telephone: (816) 374–6405.

Kansas Department of Health and Environment, Bureau of Environmental Remediation, Surface Mining Section, 1501 South Joplin, P.O. Box 1418, Pittsburg, Kansas 66762, Telephone (316) 231–8615.

FOR FURTHER INFORMATION CONTACT: Mr. Robert L. Markey, Acting Director, Kansas City Field Office, Telephone: (816) 374–6405.

SUPPLEMENTARY INFORMATION:

I. Background on the Kansas Program

On January 21, 1981, the Secretary of the Interior conditionally approved the Kansas program. Background information on the Kansas program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the January 21, 1981 **Federal Register** (46 FR 5892). Subsequent actions concerning the Kansas program and program amendments can be found at 30 CFR 916.12, 916.15, and 916.16.

II. Discussion of the Proposed Amendment

By letter dated August 9, 1995 (Administrative Record No. KS–600), Kansas submitted a proposed amendment to its program pursuant to SMCRA. Kansas submitted the proposed amendment at its own initiative. Kansas proposes to modify its requirements for determining the productivity success of trees and shrubs by amending its approved revegetation guidelines entitled ''Revegetation Standards for Success and Statistically Valid Sampling Techniques for Measuring Revegetation Success'' to include an alternative sampling method for determining woody stem density.

Specifically, Kansas proposed the following alternative sampling method for woody stems.

Woody Stem Density

The Permittee shall use success standards developed in joint cooperation between the Kansas Department of Wildlife and Parks (KDWP), USDA-Soil Conservation Service (USDA–SCS), Kansas State University—Forestry Extension (KSU), the Operator and the SMS. The productivity success is determined by the success of the trees and shrubs. The Permittee will be required to utilize one of two sampling techniques, 100 percent count or 1/50 acre sampling circles. All data must be collected in a statistically valid manner. Where the stocking density for the permit has been set at less than 300 stems per acre and less than 10 acres, a 100% stem count is required. Where the stocking density exceeds 300 stems per acre on 10 acres or more, a 1/50 acre sampling circle may be used as described below.

Stem Density Sampling Techniques

The sampling circle will be a round area one-fiftieth (1/50) of an acre in size (16.7 feet in radius). The Permittee will establish a sampling circle at each of the randomly selected sampling points, such that the center of the sampling circle is the random point.

The stem density data is collected as follows:

(1) The sampling circle may be drawn by attaching a 16.7 foot string to a stake fixed at the random point and then sweeping the end of the string (tightly stretched) in a circle around the stake;

(2) All living trees and shrubs within each of the sampling circles are counted and recorded by species. Shrubs or trees rooted within the sampling circle are counted; those rooted outside of the sampling circle are not included in the sample. To count as living, the tree or shrub must be alive, healthy, and been in place for at least two years; and

(3) Continue sampling randomly selected points until sample adequacy is met. Individual sampling circle values summarized by species are used for statistical analysis.

Calculation of Stem Density

The total stem density per acre is calculated as follows: D=S divided by N times 50.

D=Total Stem Density per Acre.
S=Total Number of Stems Counted.
N=Total Number of Sample Points.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Kansas program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Kansas City Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to speak at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., c.d.t., on September 27, 1995. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Public Meeting

If only one person requests an opportunity to speak at a hearing, a

public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES.** A written summary of each meeting will be made a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 916

Intergovernmental relations, Surface mining, Underground mining.

Dated: August 24, 1995.

Russell Frum,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 95–22516 Filed 9–11–95; 8:45 am]

BILLING CODE 4310–05–M

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30 CFR Part 943

[SPATS No. TX–024–FOR]

Texas Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Texas regulatory program (hereinafter the ''Texas program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to the Texas Coal Mining Regulations (TCMR) pertaining to self-bonding. The amendment is intended to revise the Texas program to be consistent with the corresponding Federal regulations, provide additional safeguards, and improve operational efficiency.

DATES: Written comments must be received by 4:00 p.m., c.d.t., October 12, 1995. If requested, a public hearing on the proposed amendment will be held on October 10, 1995. Requests to speak at the hearing must be received by 4:00 p.m., c.d.t., on September 27, 1995.

ADDRESSES: Written comments and requests to speak at the hearing should be mailed or hand delivered to Mr. Tim L. Dieringer, Acting Director, Tulsa Field Office, at the address listed below.

Copies of the Texas program, the proposed amendment, a listing of any scheduled public hearings, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Tulsa Field Office.

Tim L. Dieringer, Acting Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma, 74135–6547, Telephone: (918) 581–6430.

Surface Mining and Reclamation Division, Railroad Commission of Texas, 1701 North Congress Avenue, P.O. Box 12967, Austin, Texas, 78711–2967, Telephone: (512) 463–6900.

FOR FURTHER INFORMATION CONTACT: Mr. Tim L. Dieringer, Acting Director, Tulsa Field Office, Telephone: (918) 581–6430.

SUPPLEMENTARY INFORMATION:

I. Background on the Texas Program

On February 16, 1980, the Secretary of the Interior conditionally approved the Texas program. General background information on the Texas program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the February 27, 1980, **Federal Register** (45 FR 12998). Subsequent actions concerning the Texas program can be found at 30 CFR 943.10, 943.15, and 943.16.

II. Description of the Proposed Amendment

By letter dated August 11, 1995, (Administrative Record No. TX–593), Texas submitted a proposed amendment to its program pursuant to SMCRA. Texas submitted the proposed amendment at its own initiative. Texas proposes to amend the Texas Coal Mining Regulations at subsection 806.309(j)(2)(C)(iv) concerning the criteria for acceptance of self-bonds to ensure reclamation performance.

Texas proposes to include an indicator ratio of total liability to net worth of 2.5 or less as an alternative to its existing self-bonding requirement for a ratio of total liabilities to net worth that is equal to or less than the industry median reported by the Dun and

Bradstreet Corporation for the applicant's primary standard industry classification code.

Texas also proposes to add new criteria which applicants can meet to qualify for self-bonding as an alternative to Texas' existing criteria. This alternative method of self-bonding includes a specific requirement for net worth of at least $100 million, a requirement for fixed assets in the United States totaling at least $200 million, a requirement for issued and outstanding securities pursuant to the Securities Act of 1933 subject to the periodic financial reporting requirements of the Securities and Exchange Act of 1934, and a requirement that the total amount of the applicant's outstanding and proposed self-bonds for surface coal mining and reclamation operations shall not exceed 16⅔ percent of the applicant's net worth in the United States.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Texas program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Tulsa Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to speak at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., c.d.t., on September 27, 1995. The location and time of the hearing will be arranged with those persons requesting the hearing. Of no one requests an opportunity to speak at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Public Meeting

If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES.** A written summary of each meeting will be made a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 943

Intergovernmental relations, Surfacing mining, Underground mining.

Dated: August 24, 1995.

Russell Frum,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 95–22517 Filed 9–11–95; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD11–95–003]

RIN 2115–AE47

Drawbridge Operation Regulations; Oakland Inner Harbor Tidal Canal, CA

AGENCY: Coast Guard, DOT.

ACTION: Notice of reopening of comment period; notice of public hearing.

SUMMARY: In response to several requests for a public hearing, the Coast Guard is reopening the comment period

and announcing a public hearing to be held October 5, 1995, on the proposed change to the drawbridge operating regulations for four drawbridges over the Oakland Inner Harbor Tidal Canal (Oakland Estuary).

DATES: The public hearing will be held on October 5, 1995, commencing at 7 p.m. Written comments must be received not later than October 31, 1995.

ADDRESSES: The hearing will be held at the Gresham Conference Center, Building 4, Coast Guard Island, Alameda, CA. Written comments should be mailed to Commander (oan-br), Eleventh Coast Guard District, Building 10, Room 214, Coast Guard Island, Alameda, CA 94501–5100, or may be delivered to Room 214 at the same address between 7:30 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jerry Olmes, Bridge Administrator, Eleventh Coast Guard District; telephone (510) 437–3514.

SUPPLEMENTARY INFORMATION:

Regulatory Background

On May 9, 1995 (60 FR 24599), the Coast Guard published a Notice of Proposed Rulemaking (NPRM), (CGD11–95–003), which proposed amending the regulation for the draws of the Alameda County vehicular bridges crossing the Oakland Inner Harbor Tidal Canal at the following locations: Park Street, mile 7.3; Fruitvale Avenue, mile 7.7; High Street, mile 8.1; and the U.S. Army Corps of Engineers railroad bridge, mile 7.7 at Fruitvale Avenue. Under the existing regulation, the draws are attended 24 hours per day, and open upon signal except during designated morning and afternoon commute periods. The proposed amendment requires attended service 16 hours per day with a four hour advance notice requirement for bridge openings during nighttime hours when an operator is not in constant attendance. The proposed amendment preserves the existing commute hour closures. This proposed amendment will allow the bridge owner to reduce operating expenses and should still provide for the reasonable needs of navigation. In addition, the identifying waterway mileage designating the location of, and the call sign for, each bridge would be revised to conform with the currently utilized standard of measurement.

Discussion of Proposed Action

The Coast Guard received 18 letters in response to the NPRM, six of which requested a public hearing. The Coast Guard has decided to reopen the comment period and to hold a public hearing in order to provide all interested parties with additional opportunity to present relevant comments.

The hearing will be informal. Representatives of the Coast Guard will preside, make brief opening statements and announce the procedures to be followed at the hearing. Each person who wishes to make an oral statement should contact Mr. Jerry Olmes at (510) 437–3514 before the hearing date. Such notification should include the approximate time needed to make the presentation. Comments previously submitted on this rulemaking are a matter of record and need not be resubmitted at the hearing. Speakers are encouraged to provide written copies of their oral statement to the hearing officers at the hearing.

Interested persons who are unable to attend the hearing may also participate in the consideration of the proposed amendment by submitting their written comments to the Commander (oan-br), Eleventh Coast Guard District at the address under **ADDRESSES.**

All written comments must be received no later than October 31, 1995. Each written comment should identify the proposed amendment and clearly state the reason for any objections, comments or proposed changes, and include the name and address of the person or organization submitting the comment. Copies of all written communications will be available for review by interested persons after the hearing at the office of the Commander (oan-br), Eleventh Coast Guard District, between 7:30 a.m. and 3:30 p.m., Monday through Friday, except holidays. All comments received, whether in writing or presented orally at the public hearing, will be fully considered before final agency action is taken on the proposed amendment. The proposed amendment may be changed in light of comments received.

The hearing will be recorded and a written summary will be available for public review after October 16, 1995. All comments will be made a part of the rulemaking docket.

Dated: August 30, 1995.

D.D. Polk,

Captain, U.S. Coast Guard, Commander, Eleventh Coast Guard District, Acting.

[FR Doc. 95–22527 Filed 9–11–95; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 153–1–7165b; FRL–5278–8]

Approval and Promulgation of State Implementation Plans; California State Implementation Plan Revision; El Dorado County Air Pollution District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the California State Implementation Plan (SIP) which concern the control of volatile organic compound (VOC) emissions from lumber processing and timber manufacturing.

The intended effect of proposing approval of this rule is to regulate emissions of VOCs in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In the Final Rules Section of this **Federal Register**, the EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received in writing by October 12, 1995.

ADDRESSES: Written comments on this action should be addressed to: Daniel A. Meer, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the rule and EPA's evaluation report for the rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule are also available for inspection at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95814.

El Dorado County Air Pollution Control District, 330 Fair Lane, Placerville, CA 95667.

FOR FURTHER INFORMATION CONTACT: Duane F. James, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1191.

SUPPLEMENTARY INFORMATION: This document concerns El Dorado County Air Pollution Control District's (EDCAPCD) Rule 234, ''VOC RACT Rule—Sierra Pacific Industries,'' submitted to EPA on June 16, 1995, by the California Air Resources Board. For further information, please see the information provided in the Direct Final action which is located in the Rules Section of this **Federal Register**.

Authority: 42 U.S.C. 7401–7671q.

Dated: August 10, 1995.

Felicia Marcus,

Regional Administrator.

[FR Doc. 95–22155 Filed 9–11–95; 8:45 am]

BILLING CODE 6560–50–W

40 CFR Part 52

[AK–4–1–6027b, WA–7–1–5542b, WA–38–1–697b; FRL–5278–1]

Approval and Promulgation of State Implementation Plans: Alaska and Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the 1 year attainment date extension for three nonattainment areas: Mendenhall Valley, Alaska; Spokane, Washington; and Wallula, Washington, for particulate matter with an aerodynamic diameter of less than or equal to ten micrometers (PM–10). In the Final Rules Section of this **Federal Register**, the EPA is approving the States' extensions as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If the EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document.

DATES: Comments on this proposed rule must be received in writing by October 12, 1995.

ADDRESSES: Written comments should be addressed to Montel Livingston, Environmental Protection Specialist (AT–082), Air Programs Section, at the EPA Regional Office listed below. Copies of the documents relevant to this proposed rule are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

U.S. Environmental Protection Agency, Region 10, Air Programs Section, 1200 6th Avenue, Seattle, WA 98101.

Alaska Department of Environmental Conservation, 410 Willoughy, Suite 105, Juneau, Alaska 99801–1795; and the Washington State Department of Ecology, P.O. Box 47600, PV–11, Olympia, Washington 98504–7600.

FOR FURTHER INFORMATION CONTACT: Christi Lee, Air Programs Branch (AT–082), EPA, 1200 6th Avenue, Seattle, WA 98101, (206) 553–1814; or George Lauderdale, Environmental Protection Specialist, Air Programs Branch (AT–082), EPA, 1200 6th Avenue, Seattle, WA 98101, (206) 553–6511.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action which is located in the Rules Section of this **Federal Register**.

Dated: August 8, 1995.

Charles Findley,

Acting Regional Administrator.

[FR Doc. 95–22161 Filed 9–11–95; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 52

[ME–24–1–6911b; A–1–FRL–5284–9]

Approval and Promulgation of Air Quality Implementation Plans; Maine; Title V, Section 507, Small Business Stationary Source Technical and Environmental Compliance Assistance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Maine for the purpose of establishing a small business stationary source technical and environmental compliance assistance program (PROGRAM). In the final rules section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this proposal. Any parties interested in commenting on this proposal should do so at this time.

DATES: Comments must be received on or before October 12, 1995.

ADDRESSES: Comments may be mailed to Susan Studlien, Acting Director, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, JFK Federal Bldg. (AAA), Boston, MA 02203. Copies of the State submittal and EPA's technical support document are available for public inspection during normal business hours, by appointment at the Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, One Congress Street, 10th floor, Boston, MA and the Bureau of Air Quality Control, Department of Environmental Protection, 71 Hospital Street, Augusta, ME 04333.

FOR FURTHER INFORMATION CONTACT: Emanuel Souza, Jr., (617) 565–3248.

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule which is located in the rules section of this **Federal Register**.

Authority: 42 U.S.C. 7401–7671q.

Dated: April 24, 1995.

John P. DeVillars,

Regional Administrator, Region I.

[FR Doc. 95–22153 Filed 9–11–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[NH17–01–7149b; A–1–FRL–5281–9]

Approval and Promulgation of Air Quality Implementation Plans; New Hampshire; Extension of the Date To Meet Conditions for the Inspection and Maintenance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP)

revision submitted by the State of New Hampshire. This revision establishes and allows for extension of the date for the State of New Hampshire to meet the conditions delineated in the **Federal Register** of October 12, 1994 (59 FR 51514), from July 29, 1995, until November 14, 1995. New Hampshire must meet these conditions before the motor vehicle inspection and maintenance program can be approved. In the Final Rules Section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency believes this is a noncontroversial revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this proposal. Any parties interested in commenting on this proposal should do so at this time.

DATES: Comments must be received on or before October 12, 1995.

ADDRESSES: Comments may be mailed to Susan Studlien, Acting Director, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, JFK Federal Bldg., Boston, MA 02203. Copies of the State submittal and EPA's technical support document are available for public inspection during normal business hours, by appointment at the Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region I, One Congress Street, 10th floor, Boston, MA and at the Air Resources Division, Department of Environmental Services, 64 North Main Street, Caller Box 2033, Concord, NH 03302–2033.

FOR FURTHER INFORMATION CONTACT: Peter Hagerty, (617) 565–3224.

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule which is located in the Rules Section of this **Federal Register**.

Authority: 42 U.S.C. 7401–7671q.

Dated: July 27, 1995.

John P. DeVillars,

Regional Administrator, EPA-New England.

[FR Doc. 95–22166 Filed 9–11–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[30–1–6372, VA32–1–5999; FRL–5294–1]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Proposed Approval of Revised Confidentiality Provisions; Proposed Approval and Disapproval of Minor New Source Permit Provisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve in part and disapprove in part State Implementation Plan (SIP) revisions submitted by the Commonwealth of Virginia. This action proposes approval of changes submitted by Virginia in March 1993 to the provisions governing confidentiality of information. This action proposes disapproval of the public participation requirements associated with the permitting of minor new sources, and proposes approval of all other revisions to Virginia's revised new source permit provisions. The intended effect of this action is to propose approval of those State provisions which meet the requirements of the Clean Air Act, and disapprove those State provisions which do not.

DATES: Comments must be received on or before October 12, 1995.

ADDRESSES: Comments may be mailed to Marcia L. Spink, Associate Director, Air Programs, Mailcode 3AT00, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford, (215) 597–1325.

SUPPLEMENTARY INFORMATION: On March 18, 1993 and March 29, 1993, the Virginia Department of Environmental Quality submitted a series of amendments to its Regulations for the Control and Abatement of Air Pollution as formal revisions to its State Implementation Plan (SIP). These SIP revision submittals are described below.

I. March 18, 1993 Submittal

Virginia submitted revised provisions in Part II (General Provisions), Section 120–02–30 (Availability of Information) in order to establish criteria for determining confidential information. A definition of ''confidential information,'' including the criteria used to determine confidentiality, is added to Part I (General Definitions), Section 120–01–02 (Terms Defined).

Section 120–02–30 is revised to (1) emphasize that emissions data shall be available to the public without exception; (2) provide for criteria to determine whether information submitted by a regulated entity may be kept confidential; (3) substitute non-confidential information for confidential information, or challenge the request to keep information confidential; determine an owner who files confidential information which does not meet the established criteria to be in violation of Commonwealth law. Confidential information must meet the following criteria:

(1) The owner has taken measures in the past to keep such information confidential.

(2) The information has not been reasonably obtainable without the owner's consent by private citizens or other firms. (Exception: Information obtained through judicial discovery based on a showing of ''special need'' may still be kept confidential from the public.)

(3) Information may not be readily available from sources other than the owner.

(4) Disclosure of the information would cause ''substantial harm'' to the owner.

Virginia also submitted additional revisions to Parts I and II (General Provisions). EPA will act upon these revisions in a separate rulemaking action.

Virginia certified that public hearings were held on September 2, 1992 in Abingdon, Roanoke, Lynchburg, Fredericksburg, Richmond, Chesapeake, and Springfield.

EPA Evaluation

The determination of confidentiality provisions set forth in the definition of ''confidential information'' and the provisions of Section 120–02–30 have been revised to conform with the Virginia Administrative Code. EPA has determined that these revised provisions meet the requirements of 40 CFR Section 52.116(a), which requires states to make emissions data available for public inspection. However, should Virginia submit a SIP revision request on behalf of a source and submit information which has been judged confidential under the provisions of Section 120–02–30, Virginia must request EPA to consider confidentiality according to the provisions of 40 CFR

Part 2. EPA is obligated to keep such information confidential only if the criteria of 40 CFR Part 2 are met.

II. March 29, 1993 Submittal

Virginia submitted revised provisions of Part VIII, Section 120–08–01 (Permits—new and modified stationary sources). Virginia has also revised Appendix R (Stationary Source Permit Exemption Levels) as part of this SIP revision request.

Section 120–01–08A—Applicability

Section 120–08–01A.3 states that sources exempt from this section must still comply with all other applicable regulations, laws, ordinances and orders of governmental entities having jurisdiction (including the Federal government). In addition, any facility which is exempt from this section, but which exceeds the applicable emissions standard threshold of Part IV (as if it were an existing source) or the standard of performance threshold of Part V, shall still be subject to the more restrictive of these two provisions.

Section 120–08–01A.4 is added to state that increments of construction or modification, unless specifically part of an approved planned incremental construction/modification program, shall be added together to determine whether such activity is subject to the provisions of Section 120–08–01. This provision is currently found in Section V.B of SIP-approved Appendix R.

Section 120–08–01B—Definitions

Allowable emissions and *potential to emit*—The revised wording makes clear that emission limitations must be both State *and* Federally enforceable.

Commence—from *cancelled* to *canceled.*

Federally enforceable—extends to *federally enforceable* operating permit programs.

''Modification''—(1) ''Amount'' is replaced with ''uncontrolled emission rate''; (2) the revised definition clarifies that emissions associated with maintenance, repair and replacement activities which do not fall within the definition of ''reconstruction'' will not be considered ''modifications'' (3) the following exclusions are removed: use of an alternative fuel ordered under the 1974 Energy Supply and Environmental Coordination Act (ESECA), use of an alternative fuel ordered under section 125 of the Clean Air Act, and the change in ownership of an emissions unit.

Section 120–08–01C—General

The provisions of current SIP Section 120–08–01.C.4 are deleted and replaced with the provisions of new Section 120–08–01G. New Section 120–08–01C.4 is added to state that both the permit application and the permit itself may combine all applicable provisions of Sections 120–08–01, 120–08–02 and 120–08–03.

Section 120–08–01D—Applications

The provisions of current SIP Section 120–08–01D.1, describing who is authorized to sign the permit application, is expanded and relocated in Section 120–08–01D.3. Section 120–08–01D.2 states that a single application should identify each emissions point in the emissions unit. Section 120–08–01D.4 provides the text of a statement which an applicant must sign certifying that the information is, to the best of the applicant's knowledge, true, accurate and complete. Section 120–08–01D.5 requires an applicant to provide a notice from the locality in which the source is located that the site and operation of the source are consistent with all local ordinances.

SIP Section 120–08–01F—Standards for Granting Permits

This section is moved to Section 120–08–01H.

Section 120–08–01F—Action on Permit Application (SIP Section 120–08–01G)

Section 120–08–01F.1 is rewritten to state that within 30 days of the receipt of a permit application, the board will notify the applicant as to the status of the application, including (1) a determination as to which provisions of part VIII are applicable; (2) identification of deficiencies; and (3) a determination as to whether the permit application contains sufficient information to begin review. This provision further distinguishes as to what is meant by ''sufficient'' (i.e., Virginia has enough information to begin review of the application), and what is meant by ''complete'' (i.e., Virginia has enough information to forward the application to the State Air Pollution Control Board for final review and analysis, as well as final decision).

The provisions in subsections 120–08–01F.2 through F.5 are rewritten or revised to reflect that all applicable public participation requirements are now spelled out in Section 120–08–01G.

Section 120–08–01G—Public Participation

Section 120–08–01G consolidates the applicable public participation requirements that are currently located in SIP sections 120–08–01C.4. and 120–08–01G.2 through G.6. This section, as revised, applies to all major stationary sources or major modifications with a net emissions increase of 100 tons per year of any single pollutant. In addition, Section 120–08–01G.4 specifies that applications from the following categories of sources shall be subject to a 30-day public comment period and if necessary, a public hearing:

(1) major stationary sources and modifications with a net emissions increase of 100 tons per year of any single pollutant, and which are not subject to the requirements of either Section 120–08–02 or 120–08–03; (2) stationary sources which have the potential for public interest concerning air quality issues; (3) stationary sources of which any provision of the permit would exceed the height allowed by the State's definition of good engineering practice (GEP).

Section 120–08–01I.—Application Review and Analysis

The provisions of SIP section 120–08–01L have been moved to this section.

Section 120–08–01J (Former Section 120–08–01H)—Compliance Determination and Verification by Performance Testing

1. Section 120–08–01J.3 adds language specifying that the owner of a source is responsible for conducting initial source testing, as well as providing the State with written report stating the results of such testing.

2. Sections 120–08–01J.3, J.4, J.5, and J.6 contain revised provisions to conform with the revised organization of this subsection.

Section 120–08–01K—Permit Invalidation, Revocation and Enforcement (SIP Title: Revocation of Permit)

1. Sections 120–08–01K.1 and K.3 contain revised provisions to conform with the revised organization of this subsection.

2. Sections 120–08–01K.4 through K.9 are added to specify conditions under which construction and operating permits would be subject to enforcement action (K.4), limiting terms and conditions (K.5.), revocation (K.6), suspension (K.7), and civil charges, penalties and other relief contained under the State's regulatory and statutory authority (K.8). Section 120–08–01K.9 provides that the State shall notify applications in writing of its decision and reasons to change, suspend, revoke, or invalidate a permit. Reasons for revoking a permit include: (1) Knowingly making misstatements on the permit application, (2) failing to comply with the terms and conditions of the permit, (3) failing to comply with any emission standards applicable to an

emissions unit included in the permit, (4) causing emissions which result in violations of any ambient air quality standard or applicable control strategy, including the SIP-enforceable emission limit in effect at the time that the application is submitted, and (5) failing to comply with the applicable provisions of Section 120–08–01. Although not specified in the language of Section 120–08–09K, EPA interprets the violation of an ''applicable control strategy'' to also include the violation of any applicable Prevention of Significant Deterioration (PSD) increment.

Section 120–08–01L—Existence of Permit No Defense (SIP Section 120–08–01J); Section 120–08–01M—Compliance With Local Zoning Requirements (SIP Section 120–08–01K)

There are no changes other than the new subsection designation within either of these sections.

Section 120–08–01N—Reactivation and Permanent Shutdown (New)

This section establishes provisions for determining what constitutes a permanent shutdown. Section 120–08–01.N.2 provides that if a source is shut down permanently, the State shall revoke the permit by written notification to the owner, and remove the source from its emissions inventory. If such source chooses to resume operation, then the owner must apply for another permit. Section 120–08–01N.3 provides that where the State determines that a source has not operated for a year or more, it shall notify the owner in writing of its intent to consider the shutdown as permanent. This section further provides that a source owner is entitled to a formal hearing on the State's determination. Section 120–08–01N.4 provides that nothing would prevent State and the source from making a mutual determination of a mutual shutdown prior to any decision rendered at the formal hearing.

Section 120–08–01O—Transfer of Permits (New)

This section establishes provisions for notifying the State when a permitted source undergoes transfer of ownership or change to the source's name. This section further establishes that a permit may not be transferred from one location to another or from one piece of equipment to another, unless the source is considered a portable facility under Section VII of Appendix R.

Section 120–08–01P—Circumvention

There are no changes other than the new subsection designations within this section.

Note: The following provisions of Section 120–08–01 pertain to sources which are not covered by the SIP, and will not be either reviewed or evaluated as part of this SIP revision action:

Sections 120–08–01C.1.b, 120–08–01G.4.a, 120–08–04H.1, 120–08–04.I.2.

Appendix R

This Appendix, which replaces current SIP Section 2.33(g), defines and describes those source categories and thresholds which are either subject to or exempted from the provisions of Section 120–08–01. The provisions of Sections VI and IX of Appendix R pertain to sources which are not covered by the SIP, and will not be either reviewed or evaluated as part of this SIP revision action. New exemptions from the provisions of Section 120–08–01 include the following sources: (1) Solid fuel burning units with a maximum heat input of between 350,000 btu/hr and 1,000,000 btu/hr; (2) new sources of volatile organic compounds (VOC) with uncontrolled emission rates of less than 25 tons per year; modified VOC sources with uncontrolled emissions increases of less than 10 tons per year; (3) new sources of particulate matter (PM_{10}) with uncontrolled emission rates of less than 15 tons per year; modified PM_{10} sources with uncontrolled emissions increases of less than 10 tons per year; (4) new sources of sulfur dioxide (SO_2) with uncontrolled emission rates of less than 40 tons per year; (5) new sources of nitrogen dioxide (NO_2) with uncontrolled emission rates of less than 40 tons per year; (6) addition of, relocation of, or change to a woodworking machine within a wood product manufacturing plant; (7) all wood sawmills.

Virginia has certified that public hearings were held on July 8, 1992 for all of the above revisions in accordance with 40 CFR Section 51.102. The public hearing locations were Abingdon, Roanoke, Lynchburg, Fredericksburg, Richmond, Chesapeake, and Springfield.

EPA Evaluation

The Agency requirements for new source permitting are found in 40 CFR part 51, subpart I (Review of New Sources and Modifications), sections 51.160 through 51.166 inclusive. Section 120–08–01 is designed to apply to permitting procedures for ''minor'' new sources and modifications, i.e., sources who would need a permit to construct or modify, but not be subject to the federally enforceable permitting requirements established for sources subject to PSD or new source review in nonattainment areas. EPA is satisfied that the threshold exemption levels established in Section 120–08–01 and Appendix R would not exempt sources which should be subject to the permitting procedures in the latter two categories. Furthermore, EPA is satisfied that the revised requirements in Section 120–08–01 are consistent with the criteria listed in § 51.160. Similarly, EPA is satisfied that exemptions specified in specific types of emissions (such as the exemption of vessel emissions when calculating secondary emissions) are consistent with the current requirements of 40 CFR part 51, specifically the definition of ''secondary emissions'' found in §§ 51.165(a)(1)(viii) and 51.166(b)(18).

The provisions of Section 120–08–01N, concerning shutdowns, pertain only to the procedural mechanisms for permit determinations. In order to determine whether it is appropriate for shutdown credits to be used in an attainment demonstration, Virginia has developed a system which keeps track of shutdowns, pursuant to Section 120–08–03. Therefore, EPA's evaluation only focuses on the shutdown mechanism and not the application of shutdown credits. The shutdown mechanisms found in Section 120–08–01N. are consistent with the criteria listed in § 51.160.

While the revised provisions of Section 120–08–01 represent an improvement over the current SIP provisions, one revision significantly relaxes a current SIP requirement. According to the requirements of 40 CFR sections 51.160 and 51.161, an approved SIP must contain legally enforceable procedures which provide for the opportunity for public comment on information submitted by owners and operators of all sources covered by Section 120–08–01. This requirement is addressed by the SIP-approved provisions of Section 120–08–01C.4.a. However, the revised provisions of Sections 120–08–01G.1 and –01G.4.b specifically exempt major modifications of less than 100 tons per year from the prescribed public participation requirements. Therefore, the revised provisions of Sections 120–08–01G.1 and –01G.4.b would no longer meet the public participation requirements of 40 CFR Section 51.161 since certain major modifications currently subject to the public participation requirements of SIP-approved Section 120–08–01 would now be exempt from such requirements. Therefore, EPA proposes disapproval of

Virginia's revised Sections 120–08–01G.1 and 120–08–01G.4.b. as revisions to the Virginia SIP.

The revisions to the provisions of Section 120–08–01 serve to strengthen its overall enforceability. The definitions of ''allowable emissions'' and ''potential to emit'' found in Section 120–08–01B. clearly state that the applicable emissions rates and emissions limits must be federally enforceable. In addition, the permit exemption thresholds listed in Appendix R are consistent with those listed in 40 CFR Sections 51.165 and 51.166. Those new and modified sources which would be covered by the provisions of Section 120–08–01 and which have the potential to emit of 100 tons or more per year consist of sources which are not covered by the provisions for PSD (e.g., categories of sources where the PSD applicability threshold is 250 tons per year or more) or new source review in nonattainment areas. Section 120–08–01D. clearly defines the ''responsible official'' required to sign any application form, report or compliance certification. The revised definition of ''modification'' has been strengthened now that the ESECA exemption that had been previously part of the SIP has now been removed. In addition, the enforceability has been strengthened since ''uncontrolled emissions rate'' is more definitive than ''amount.'' The definition of ''federally enforceable'' has been expanded to include operating permits issued under a federally approved program.

Section 120–08–01K expands the conditions under which the State may revoke a construction permit issued under this section. Although Section 120–08–01K.6.d. does not specifically state that Virginia will revoke a permit because of violation of any applicable PSD increment, EPA can enforce such revocation under the premise that any violation of the PSD increment constitutes a violation of the SIP control strategy in effect at the time that the application is submitted.

The revisions to Section 120–08–01 are administrative and procedural in nature, and contain no emission limits. Therefore, the revised provisions in and of themselves will have no adverse impact on air quality.

Section 51.160(a) of 40 CFR part 51 requires states to set forth enforceable procedures making a state agency responsible to determine whether the construction or modification of a facility, building, structure or facility will result in either (1) violations of an applicable control strategy, or (2) interference with the attainment or maintenance of a standard in the state where the source is to be located, or in a neighboring state. States may exempt certain sources and or source modifications from their permitting requirements if such exemptions would not violate the provisions of 40 CFR § 51.160(a). Virginia lists its size threshold and source category exemptions in Appendix R. The revised Appendix R expands the threshold and categories of new or modified sources which would be exempt from the permitting requirements of Section 120–08–01.

In its analysis supporting the revised exemption levels of Appendix R, Virginia states that wood sawmills and wood manufacturing operations now exempted from the permitting requirements of Section 120–08–01 are considered ''small businesses'' whose emissions are likely to be below the revised PM_{10} threshold exemption levels and thus, will not significantly contribute to ambient levels of PM_{10} standards. Virginia further states that such operations which meet the applicability requirements of Sections 120–08–02 (Major Stationary Sources and Major Modifications Locating in PSD Areas) or 120–08–03 (Major Stationary Sources and Major Modifications Locating in Nonattainment Areas) must still obtain a permit from Virginia. In addition, owners of sources exempted from the permitting provisions of Section 120–08–01 by Appendix R will not be relieved from the applicability requirements of Section 120–08–01A.3. as described above.

Except as noted below, EPA has determined that the revised threshold exemption levels established by Virginia and listed in Part II of Appendix R are stringent enough that the applicable national ambient air quality standards (NAAQS) and PSD increments will be protected, and that no applicable control strategy will be violated. EPA has concluded that the new and modified sources covered by the requirements of 40 CFR 52.21 and 52.24 contribute more significantly towards current ambient air quality levels. Although there currently are no PM_{10} nonattainment areas in Virginia, EPA requests Virginia to expand on its analysis that the exemptions of wood sawmills and wood manufacturing operations from the permitting requirements of Section 120–08–01 (as stated in Appendix R) would meet the requirements of 40 CFR 51.160(a).

Proposed Action

EPA is proposing to approve the revised provisions of Sections 120–02–30 and 120–08–01 (except for Sections 120–08–01G.1 and –01G.4.a), as well as the definition of ''confidential information.'' EPA is also proposing approval of the revised exemption levels of Appendix R, provided that Virginia supply additional documentation that the exemptions provided for wood manufacturing operations and wood sawmills are consistent with all applicable Agency criteria for minor new source permit programs. At the same time, EPA proposes to disapprove the public participation requirements set forth in Sections 120–01–08G.1 and –01G.4.a, and retain in its place the current Virginia SIP-approved public participation provisions of Section 120–08–01C.4.a.

EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this notice.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such

grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that this proposed approval action does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This proposed Federal action proposes approval of pre-existing requirements under State or local law, or retains currently-existing Federal requirements. This proposed action imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary R. Nichols, Assistant Administrator for Air and Radiation. The OMB has exempted this regulatory action from E.O. 12866 review.

The Administrator's decision to approve or disapprove the SIP revision pertaining to Virginia's confidentiality of information and minor new source permit provisions will be based on whether it meets the requirements of section 110(a)(2)(A)–(K) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Authority: 42 U.S.C. 7401–7671q.

Dated: August 28, 1995.

W. Michael McCabe,

Regional Administrator, Region III.

[FR Doc. 95–22336 Filed 9–11–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Parts 52 and 81

[LA–28–1–7053b; FRL–5292–7]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of Louisiana; Approval of the Maintenance Plan for St. James Parish; Redesignation of St. James Parish to Attainment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: On December 15, 1994, the State of Louisiana submitted a revised maintenance plan and request to redesignate the St. James Parish ozone nonattainment area to attainment. This maintenance plan and redesignation request was initially submitted to the EPA on May 25, 1993. Although the EPA deemed this initial submittal complete on September 10, 1993, certain approvability issues existed. The State of Louisiana addressed these approvability issues and has again submitted this request. Under the Clean Air Act (CAA), nonattainment areas may be redesignated to attainment if sufficient data are available to warrant the redesignation and the area meets the other CAA redesignation requirements. In this action, EPA is approving Louisiana's redesignation request because it meets the maintenance plan and redesignation requirements set forth in the CAA, and EPA is approving the 1990 base year emissions inventory. The approved maintenance plan will become a federally enforceable part of the State Implementation Plan (SIP) for Louisiana.

In the Final Rules Section of this **Federal Register**, the EPA is approving this redesignation request as a direct final rulemaking without prior proposal because the EPA views this action as noncontroversial and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If the EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received in writing, postmarked by October 12, 1995. If no adverse comments are received, then the direct final rule will be effective on November 13, 1995.

ADDRESSES: Comments should be mailed to Thomas H. Diggs, Chief, Air Planning Section (6PD–L), U.S. EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733. Copies of the State's petition and other information relevant to this action are available for inspection during normal hours at the following locations:

Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

U.S. Environmental Protection Agency, Region 6, Air Planning Section (6PD–L), 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

Louisiana Department of Environmental Quality, Office of Air Quality, 7290 Bluebonnet Boulevard, Baton Rouge, Louisiana 70810.

Anyone wishing to review this petition at the Regional EPA office is asked to contact the person below to schedule an appointment 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Mr. Mick Cote, Air Planning Section (6PD–L), EPA Region 6, telephone (214) 665–7219.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final Rule which is located in the Rules Section of this **Federal Register**.

List of Subjects in 40 CFR Parts 52 and 81

Environmental protection, Air pollution control, Area designations, Hydrocarbons, Incorporation by reference, Intergovernmental regulations, National Parks, Reporting and recordkeeping, Ozone, Volatile organic compounds, Wilderness areas.

Dated: August 24, 1995.

A. Stanley Meiburg,

Acting Regional Administrator (6RA).

[FR Doc. 95–22163 Filed 9–11–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 81

[FRL–5279–7]

Designation of Areas for Air Quality Planning Purposes; Wyoming; Redesignation of Particulate Matter Attainment Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: In this document, the EPA is proposing to approve the State of Wyoming's December 19, 1994 request to redesignate the Powder River Basin particulate matter attainment area to exclude the Kennecott/Puron Prevention of Significant Deterioration (PSD) Baseline area, pursuant to section 107 of the Clean Air Act. EPA is also proposing to designate the Kennecott/Puron PSD Baseline area as a separate particulate matter attainment area. In the final rules section elsewhere in this **Federal Register**, the EPA is acting on the State's request in a direct final rule without prior proposal because the Agency views this action as noncontroversial and anticipates no adverse comments. A detailed rationale for the action is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If the EPA receives adverse comments, then the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Comments on this proposed action must be received in writing by October 12, 1995.

ADDRESSES: Written comments should be addressed to Vicki Stamper, 8ART-AP, at the EPA Regional Office listed below. Copies of the documents relevant to this proposed rule are available for public inspection during normal business hours at the following locations: Air Programs Branch, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2466; and Air Quality Division, Wyoming Department of Environmental Quality, 122 West 25th Street, Hershler Building, Cheyenne, Wyoming 82002.

FOR FURTHER INFORMATION CONTACT: Vicki Stamper, 8ART–AP, Environmental Protection Agency, Region VIII, 999 18th Street, suite 500, Denver, Colorado 80202–2466, (303) 293–1765.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule of the same title which is located in the Rules Section of this **Federal Register**.

Dated: August 10, 1995.

Jack W. McGraw,

Acting Regional Administrator.

[FR Doc. 95–22151 Filed 9–11–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 136

[FRL–5294–6]

A Public Meeting and Availability of Documents on Streamlining Approval of Analytical Methods at 40 CFR Part 136 and Flexibility in Existing Test Methods

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Notice of meeting and availability of documents.

SUMMARY: The Office of Science and Technology within EPA's Office of Water is conducting a public meeting on approaches to streamlining the proposal and promulgation of analytical methods at 40 CFR Part 136 under Section 304(h) of the Clean Water Act and increasing flexibility in existing 40 CFR Part 136 test methods. In this public meeting, EPA intends to discuss (1) procedures for streamlining the promulgation of new analytical methods under 40 CFR Part 136; (2) measures to provide increased flexibility for use of emerging technologies in analytical methods already promulgated at 40 CFR Part 136; (3) establishment of standardized quality control (QC) for analytical methods, including standardized procedures for development of QC acceptance criteria from single and interlaboratory data; (4) establishment of standardized data elements for reporting analytical results; (5) withdrawal of outdated methods; and (6) establishment of criteria by which the wastewater methods promulgated at 40 CFR Part 136 can be harmonized with other EPA program methods and with industry and association methods. The purpose of this notice is to provide information regarding the public meeting agenda, to make available documents concerning the Agency's streamlining effort, and to discuss the information and documents provided with this notice. This notice is not an advanced notice of proposed rulemaking, but is intended only to apprise persons of discussion topics at upcoming public meetings. Nothing in this document is intended to have regulatory effect or to initiate any rulemaking process. Where the document discusses existing regulatory interpretations, such interpretations are guidance only and not themselves binding on EPA, State regulatory agencies, or the public to the extent they are inconsistent with the underlying regulations.

DATES: The public meeting on streamlining will be held Thursday, September 28, 1995, from 9:00 a.m. to 5:30 p.m.

ADDRESSES: The public meeting on streamlining will be held at the Federal Building in Seattle, Washington. See Supplementary Information for further details.

The documents made available with this notice can be obtained from Marion Thompson, Mail Code 4303, 401 M Street, S.W., Washington, DC 20460. Phone: (202) 260–7117. Facsimile: (202) 260–7185.

FOR FURTHER INFORMATION CONTACT: Questions concerning this notice can be directed to Marion Thompson by phone at (202) 260–7117 or by facsimile at (202) 260–7185.

SUPPLEMENTARY INFORMATION: Arrangements for the public meeting are being coordinated by DynCorp EENSP. For information on registration, contact Cindy Simbanin, 300 N. Lee Street, Suite 500, Alexandria, VA 22314. Phone: (703) 519–1386. Facsimile: (703) 684–0610. Space is limited and reservations are being taken on a first come, first served basis. No fees will be charged to attend. Hotel reservations may be made by contacting the Crowne Plaza Hotel in Seattle at (800) 521–2762. Guest rates are $83 single and $106 double occupancy, including tax. Reservations must be made by 9/8/95, and you must specify that you are attending the EPA Workshop to qualify for the group rate. Accommodations are limited, so please make your reservations early.

I. Background

Section 304(h) of the Clean Water Act (CWA) requires the EPA Administrator to promulgate guidelines establishing test procedures for data gathering and monitoring under the Act. These test procedures (analytical methods) are promulgated at 40 CFR Part 136. EPA uses these analytical methods to support development of effluent guidelines promulgated at 40 CFR Parts 400–499. These procedures we also used to establish compliance with National Pollutant Discharge Elimination System

(NPDES) permits and for other purposes.

A. 40 CFR Part 136 Methods

Until April of 1995, proposal and promulgation of analytical methods for wastewater at 40 CFR Part 136 had been the responsibility of EPA's Office of Research and Development (ORD), specifically, the Environmental Monitoring Systems Laboratory in Cincinnati, Ohio (EMSL–Ci). In April of 1995, EPA restructured its research laboratories and transferred responsibility for proposal and promulgation of analytical methods for wastewater to the Engineering and Analysis Division (EAD) within the Office of Water's (OW's) Office of Science and Technology (OST).

One objective in implementing transfer of the 304(h) program was to better serve the needs of the regulated community, State and Regional permitting authorities, and environmental laboratories, by centralizing the methods overall responsibility for effluent guidelines methods and associated compliance monitoring methods into a single office. This centralization of responsibility should allow EPA to better respond to the needs of these communities by expediting the current method modification and approval process. Specific goals for streamlining the program are to:

(1) Decrease the time and Agency resources required to approve new analytical techniques and improved methods,

(2) Provide for an increase in the number of methods that are approved for use each year,

(3) Increase participation of outside organizations in the method development process, and

(4) Improve overall program quality.

In order to achieve these goals, EPA is considering development of a 304(h) program framework that is based on the following key elements:

- Increased flexibility to modify approved methods,
- Standardized QA/QC protocols to be required for all new methods,
- Standardized procedures for generating QC acceptance criteria,
- Standardized procedures for validating methods at minimal expense,
- A standardized method format,
- Standardized procedures for submitting methods to EPA for approval,
- Standardized processes for reviewing and approving methods, and
- Increased stakeholder involvement in 304(h) program implementation.

B. Public Meetings

EPA plans to conduct at least three public meetings, the public meeting announced in this notice and two others to be announced separately, to solicit input and recommendations concerning the 304(h) streamlining initiative. In addition, EPA is soliciting support and expertise from each of the groups that have developed methods already approved for use under the 304(h) program. These groups include the AOAC-International (formerly the Association of Official Analytical Chemists), the American Society for Testing and Materials (ASTM), the American Public Health Association (APHA), the Water Environment Federation (WEF), the U.S. Geological Survey (USGS), and the American Water Works Association (AWWA). Many of these groups can offer valuable insight concerning problems with the current program and recommended areas of improvement. Also, some of these groups have developed or are developing standardized procedures for the areas listed above. In these instances, EPA plans to build upon the experience and efforts of those organizations. For example, the method validation procedures described later in this notice are based on the standardized method validation protocols developed by AOAC-International and ASTM and are adapted as necessary to meet EPA's regulatory objectives.

C. Increased Flexibility in the 304(h) Program

In developing its preliminary plans for improvement of the 304(h) program, EPA concluded that the success of the program would depend on its ability to reflect the latest advances in analytical technology. This, in turn, would require that the program be efficient and flexible enough to encourage the development of new methods and technology by organizations outside of EPA. Specifically, the program must provide:

- A well-defined QC/QA program that is stringent enough to meet compliance monitoring objectives associated with the program but flexible enough to be applied to a wide variety of analytical procedures,
- A well-defined system of classifying new techniques as either new methods or as modifications to existing methods,
- A flexible framework in which already approved methods can be modified, and
- The flexibility to modify processes for submitting new methods based on lessons learned.

Advantages of increased program flexibility are expected to be shared widely by EPA, by purveyors of new technology, and by permittees, permit writers, and analytical laboratories. In addition, this inherent method flexibility, along with a well-defined program for developing and approving new methods, will provide research laboratories, instrument vendors, and equipment manufacturers with incentives for developing new analytical techniques. This, in turn, will provide permittees and permit writers with greater flexibility in selecting analytical methods that yield improved performance in specific discharge situations.

Finally, a more flexible program is consistent with this Administration's Environmental Technology Initiative. The initiative, which was announced by President Clinton in February 1993, is intended to accelerate environmental technological innovation as a means of strengthening America's economy and creating jobs while enhancing environmental protection. EPA believes that the incentives provided by a more flexible program will spur the development of new technologies, and with it new jobs. In addition, EPA anticipates that the use of new technologies may lower the cost of environmental measurements, thereby reducing costs of environmental compliance for industries and municipalities.

In seeking increased program flexibility, EPA has sought to develop a strategy that balances the advantages described above against concerns that results produced with new technologies may not be equivalent to results produced by the approved 40 CFR Part 136 methods. The core of this strategy is a well-defined QA/QC program that can apply to all approved methods and method modifications.

The remainder of this notice outlines a framework in which the key elements listed above can be implemented to meet EPA's streamlining objectives. This framework will be discussed at the public meetings on streamlining. Section II describes OST's vision for increased flexibility within the 304(h) program itself and for increased flexibility within specific methods approved under the program. Section II also describes the standardized QC framework on which this program and method flexibility is based and outlines requirements necessary to document equivalency of alternate techniques used in the program. Section III describes procedures that can be used to develop acceptance criteria for the standardized QC tests outlined in

Section II. Section IV describes standardized procedures for submitting new methods, including a standardized format for documenting new methods, standardized procedures for validating new methods, and standardized procedures for submitting validated methods to EPA for approval.

II. Method Flexibility

On October 26, 1984, EPA addressed the flexibility allowed in the wastewater methods with the promulgation of a major set of methods at 40 CFR Part 136 Appendix A for determination of organic analytes (49 FR 43234). In that promulgation, EPA stated that flexibility would be allowed in certain parts of the analytical methods, provided that equivalency could be demonstrated. This notice describes a methods system in which greater flexibility is allowed.

A. Interpretations of Flexibility

EPA has received several requests for interpretation of the flexibility allowed by the 40 CFR Part 136 methods, and EPA's Office of Research and Development (ORD) and Office of Science and Technology (OST) have provided technical interpretations of these requests. Interpretations made to date are provided in a document titled Technical Interpretation of Method Flexibility that is made available with this notice. These interpretations further clarify the flexibility of the 40 CFR Part 136 methods given in the 1984 final rule (49 FR 43234).

B. Alternate Methods

The current means by which organizations may seek approval of alternate methods is described at 40 CFR Sections 136.4 and 136.5. If an alternate method is to be applied to a specific discharge, section 136.4 requires the person submitting the request to file a limited approval application with the Administrator of the EPA Region in which the discharge occurs. If permission is sought to use the alternate method for nationwide use, a nationwide approval application must be filed with the Director of EMSL–Ci. In most instances, Regional Administrators have deferred decisions concerning limited approval to the Director of EMSL–Ci. To support its approval process, EMSL–Ci developed extensive requirements for the data needed to demonstrate that an alternate method produces results that are equal to or better than results produced by the approved method. This alternate test procedure (ATP) process has worked well for persons willing to invest the resources required. EPA seeks a public discussion of whether the ATP process should be continued, particularly in the context of the adoption of the streamlining process contemplated by this notice.

In contrast to continuing the ATP process, EPA has received numerous comments at its technical symposia and in other venues that the ATP process is cumbersome, and that the data gathering required is much more extensive than is necessary to demonstrate that a simple method modification does not materially affect the results produced by that method. Against this view, many permitting agencies interpret the words in an analytical method very literally and allow no changes whatsoever. In many cases, narrow interpretation may be justified, in that the permitting authority may have experienced situations in which certain unscrupulous dischargers or laboratories have taken shortcuts that ultimately compromised the analytical results produced. If this compromise results in compliance with a permit limit when use of the approved, unmodified method would result in noncompliance, a narrow, restrictive interpretation would be justified.

EPA now intends to describe the conditions under which minor method modifications would be allowed and would be considered within the scope of a method. One approach to this issue is described below and will be discussed during the public meetings announced in this notice. There may be other approaches. Therefore, EPA seeks input from the public, particularly from the regulating and regulated communities, as to the workable set of conditions under which method modifications should be allowed.

C. Front-End Method Modifications

For purposes of the public meetings, EPA plans to consider changes to all but the determinative step in an analytical method as being within the scope of that method. The determinative step is the physical/chemical process by which the actual measurement is made. For most methods, the determinative step is an instrumental determination. Titration, colorimetry, inductively coupled plasma atomic emission spectroscopy (ICP/AES), high resolution gas chromatography combined with high resolution mass spectrometry (HRGC/HRMS), and reading a color change in an immunoassay are all examples of the determinative step.

All ''front-end'' devices and processes employed prior to the determinative step, including sampling, sample extraction/digestion, sample cleanup, and sample introduction, are not considered to be part of the determinative step. In addition, changes to data processing and other techniques that occur after the determinative technique rarely impact data reliability.

One objective of providing flexibility to modify approved methods is intended to allow laboratories a means by which to reduce the generation of laboratory wastes without having to undergo elaborate comparison studies and a time-consuming approval process. The front-end flexibility described in this notice is based on an in-house laboratory comparison of QC sample results generated using the modified method. Once the laboratory has successfully demonstrated that the modified method is comparable to the approved 40 CFR Part 136 method (Reference Method), the laboratory would be able to implement the changes immediately. Section II.E. of this notice outlines procedures that may be required to demonstrate method comparability.

1. Examples of Determinative Techniques

As described above, a method that uses a different determinative technique would be either a modification of another, existing, EPA-approved method or is a new method. The factors to be considered in establishing that the determinative technique is the same as that in an existing method are (1) the physical/chemical nature of the measurement process and (2) the specificity of the measurement for the analyte(s) of interest. If either or both of these factors are different from an existing method for the analyte(s) of interest, the determinative step is not the same and the procedure would not be considered to be a new method.

For example, the use of a horizontal torch in an ICP is not a different determinative technique because neither the physical/chemical process nor the specificity of the measurement is changed. Similarly, the use of a magnetic sector in place of a quadrupole in a low resolution mass spectrometer (LRMS) is not a change in the determinative technique because neither the physical/chemical process nor the specificity of measurement is changed. On the other hand, the addition of a mass spectrometer to the ICP results would be a change in both the physical/chemical process and the specificity, and use of a high resolution mass spectrometer in place of the LRMS results in a change in specificity, even though the physical/chemical nature of the process is not changed.

Further, and as one of EPA's internal reviewers has pointed out, the determinative technique may be the

least variable part of the entire analytical process. Therefore, although this notice provides one approach to flexibility in which the determinative process would be fixed, EPA seeks to discuss how this flexibility could be quantified and controlled to allow use of alternate determinative techniques without compromising the specificity of a method for the analyte(s) of interest and without making the flexibility so broad that the method protocol becomes meaningless.

2. List of Candidate Front-End Techniques

This use of the physical/chemical nature and specificity of the determinative technique to describe fundamental method changes would result in the conclusion that all analytical processes that occur prior to the determinative technique and that do not adversely affect method performance could be considered within the scope of a method. To facilitate an understanding of such front-end techniques that could be considered within the scope of existing 40 CFR Part 136 methods, EPA has compiled a list titled Front-end Techniques that are Candidates for Method Modification Under EPA's Method Flexibility Overture. This list, which is based on a review of methods promulgated at 40 CFR Part 136 and on discussions of some of these techniques at technical symposia and with instrument vendors and other suppliers of analytical equipment, is made available with this notice. EPA emphasizes that this would not be a list of approved techniques, nor would this list be all-inclusive. The list is merely intended to provide examples of the types of procedural modifications that may fall within the flexibility of approved methods. Presently, substitution of these techniques in a method approved for use under 40 CFR Part 136 is allowed only when these techniques are listed in the approved method or under the conditions described in the document titled Technical Interpretation of Method Flexibility that is also made available with this notice.

3. Cautions That All Techniques May Not Produce Equivalent Results

EPA wishes to emphasize that not all techniques may produce results equivalent to the techniques employed in the 40 CFR Part 136 methods. This is particularly true for ''method-defined'' analytes. A method-defined analyte is one in which the analytical result obtained depends totally on how the measurement is made. Therefore, changes to specific analytical protocols have the potential of changing the numerical value of the results for a given sample. For example, the conventional pollutant ''oil and grease'' (40 CFR 401.16) is defined by the exact procedure used. In attempting to find a solvent to replace Freon-113 for the determination of oil and grease, EPA has found that no solvent produces results exactly equivalent to the results produced by Freon-113 on the range of environmental samples tested. Extreme care must therefore be exercised in making changes to the analytical techniques used in the determination of these method-defined analytes.

Even for analytes that are not method-defined, differing analytical techniques can produce varying results. Examples of techniques that have come to EPA's attention are differences produced by separatory funnel and continuous liquid-liquid extractors in the extraction of phenolic compounds by EPA Method 625 and with other methods in which phenolic compounds are determined. Similarly, EPA has observed differences produced by separatory funnel and stir-bar extraction techniques for certain pulp mill wastewaters using Method 1653 and differences produced by batch versus column adsorption techniques for certain pulp mill wastewaters using Method 1650.

One possible solution to this problem would be to require that each modified method be used to analyze a matrix spike/matrix spike duplicate pair on each dissimilar matrix. Another possible solution is to require testing of each modified method on each and every specific discharge to which the modified method is to be applied. EPA employed this philosophy in the development of Method 1664 for the determination of oil and grease. Method 1664 would require demonstration of equivalency using analytical standards spiked into reagent water and testing of the specific discharge unless the concentration of oil and grease in the discharge is not detectable.

Finally, it has been suggested that it is necessary to define methods by the extraction/digestion procedure and the determinative step in order to ensure that results produced through a modified method are truly comparable. For example, it has been suggested that without this stricter definition of methods, total metals digestions could be omitted and still yield acceptable recoveries of metals from spiked samples. One possible solution to this problem would be to modify the QC requirements to require spiking of various forms of target analytes, as appropriate to the method. For example, laboratories testing for total metals would be required to include organic, inorganic, highly soluble, and relatively insoluble species of the metals of interest in their spike solutions when demonstrating method equivalency. Another possible solution would be to simply limit the flexibility outlined above and in the document entitled Front-end Techniques that are Candidates for Method Modification Under EPA's Method Flexibility Overture by omitting all techniques associated with sample extraction or digestion.

D. Standardized Quality Control

In order to establish that a front-end change will not degrade method performance, a reference against which the change is made would be needed. For the purposes of the public meetings, the reference would be the method promulgated at 40 CFR Part 136. The definitive test criteria against which performance of the front-end modification would be assessed would be the QC acceptance criteria in the promulgated method. For those methods that do not contain QC acceptance criteria, these criteria would be developed using performance data in the promulgated 40 CFR Part 136 method. See the discussion in Section III of this notice on how EPA would establish these criteria.

The QC acceptance criteria would be based on the standardized quality control (QC) described below. This standardized QC includes QC tests that can be used to demonstrate that a front-end change would not adversely affect method performance. EPA would like to apply this standardized QC to all methods to be proposed at 40 CFR Part 136 in the future. EPA would also like to apply this standardized QC to all applicable methods and analytes that are already approved for use at 40 CFR Part 136. Applicability includes all chemical analytical methods, and, with some modification, many of the radiological methods and physical methods. EPA is in the process of developing corresponding QC requirements for determining the equivalence of toxicity testing procedures and may include this corresponding QC in a subsequent notice or proposal.

1. Standardized QC in the 40 CFR Part 136 Methods

The standardized QC program envisioned by EPA would be based on the QC program detailed in Section 8 of each method published at 40 CFR 136, Appendix A. For the purpose of providing a solid foundation on which to build the method and program

flexibility described in this notice, EPA has updated and expanded the standardized QC that is detailed in these methods to ensure reliable measurements. The expanded and updated standardized QC that EPA plans to use would be as follows:

- Initial calibration—a minimum of five concentrations of analytical standards for the analyte(s) of interest, one near the method detection limit (MDL; 40 CFR 136, Appendix B), and one near the upper end of the calibration range. The nature of the calibration function allowable is specified in the method or, in the absence of such specifications, can be developed from performance data using the procedures outlined in Section III of this notice. Examples of the calibration function include: linear through the origin, linear not through the origin, or quadratic through or not through the origin. Calibration functions higher than second order (quadratic) would not be allowed. Limits on the calibration function are also specified in the method or, in the absence of such specifications, can be developed from performance data. For example, if linearity through the origin is used, some limit on the linear fit should be stated. In the Appendix A methods, this limit is specified as the percent relative standard deviation of the response factor or calibration factor. Laboratories seeking to exercise the front-end method flexibility described in this notice would be required to meet all initial calibration acceptance criteria when using the modified technique.
- Calibration verification—periodic verification that instrument performance has not changed significantly. This verification is based on time (e.g., a working day or 12-hour shift) or on the number of samples analyzed (e.g., after every 10th sample). QC acceptance criteria are given in the approved method or can be developed for each analyte using the procedures outlined in Section III of this notice. Laboratories seeking to exercise the front-end method flexibility described in this notice would be required to meet these QC acceptance criteria when using alternate front-end techniques. Most methods approved under this program specify corrective action that the analyst is to take when calibration is not verified, e.g., that all samples analyzed since the last verified calibration must be reanalyzed, or that the surrogate and matrix spike recoveries should be used to determine if results for a given sample are valid. Under the standardized QC program envisioned by EPA, this required action to would be extended to all methods already approved for use at 40 CFR Part 136 and to all new methods submitted for approval.
- Initial demonstration of laboratory capability—analysis of four reagent water samples spiked with the analyte(s) of interest and carried through the entire analytical process. This test is performed by the laboratory before it utilizes the method for analysis of actual field samples. In the 1600 series methods, this test is termed the ''initial precision and recovery'' (IPR) test. In other venues, it has been termed the ''start-up'' test. All four reagent water samples used in the test are spiked with the same solution, but the concentration of target analytes in the spike solution may vary between one and five times the lowest concentration used to establish the initial calibration curve. Laboratory performance is assessed in terms of the average percent recovery and the standard deviation of recovery. QC acceptance criteria for each analyte and consequences of failing the IPR test are given in the 40 CFR 136, Appendix A methods. For other methods, the procedures outlined in Section III of this notice can be used to develop QC acceptance criteria. Under the standardized QC program envisioned by EPA, corrective action required for failing to meet these criteria would be to correct the problem and repeat the test prior to the analysis of field samples. Laboratories seeking to exercise the front-end flexibility described in this notice would be required to produce acceptable IPR test results using the modified method technique.
- Analysis of blanks—either periodically or with each sample batch. The period or batch size is defined in each method. QC acceptance criteria are given in each method or can be developed for the concentration or amount of analyte allowed in the blank. Under the standardized QC program envisioned by EPA, the consequence of failing to meet the acceptance criteria will be to identify and eliminate the source of contamination and reanalyze the sample batch with which the blank is associated. Laboratories seeking to exercise the front-end method flexibility outlined in this notice must be capable of producing acceptable blanks when using the alternate techniques.
- Analysis of a matrix spike (MS) and matrix spike duplicate (MSD)—the analytes of interest are spiked into splits of an actual field sample, and the recovery of the analytes is used to assess method performance on that sample matrix. (For isotope dilution analyses, the MS/MSD analyses are not required because every sample is spiked.) QC acceptance criteria for spike recovery and for the relative percent difference (RPD) in results between the MS/MSD pair are given in the methods. In the absence of such specifications, recovery and RPD acceptance criteria can be developed from performance data using the procedures outlined in Section III of this notice. Unless otherwise stated in the approved method, EPA envisions that the normal consequence of failing the MS/MSD test will be to reanalyze the sample batch with which the MS/MSD are associated. Laboratories seeking to exercise the front-end flexibility described in this notice would be required to analyze an MS/MSD pair on each new matrix. If results of these MS/MSD analyses fail to meet the acceptance criteria, the laboratory would be required to conduct more extensive studies of the modified method on that matrix.
- Ongoing demonstration of laboratory capability—analysis of a single reagent water sample spiked with the analyte(s) of interest. This sample is carried through the entire analytical process to demonstrate that the laboratory is in control and to allow separation of laboratory performance from method performance on the sample matrix. In the 40 CFR 136, Appendix A methods, this sample is referred to as a ''quality control check sample.'' In other venues, this analysis has been termed the ''ongoing precision and recovery'' (OPR) analysis, the ''laboratory control sample'' (LCS), and the ''laboratory-fortified blank'' (LFB). QC acceptance criteria for each analyte in this sample are given the approved method, or in the absence of such criteria, can be developed from performance data using the procedures described in Section III of this document. Unless otherwise stated in the approved method, EPA envisions that the consequence of failing the OPR test will be to reanalyze the sample batch with which the OPR is associated.
- Method detection limit (MDL)—nearly all of the 40 CFR 136, Appendix A methods contain MDLs, although few of the methods explicitly require laboratories to demonstrate their ability to achieve these MDLs. Methods recently published by OST and by ORD, however, have required laboratories to demonstrate their ability to achieve specified MDL objectives. Under the standardized QC program envisioned by EPA, MDLs would be used as an indicator of method performance. MDLs, or the embodiment of some other detection limit concept, should be developed for each analyte in each method, and each laboratory that intends to practice a method should be

required to demonstrate that the MDL(s) or equivalent detection limit concept can be achieved prior to practice of the method. As envisioned by EPA in the system contemplated by this notice, this requirement would apply to the analytes of interest only.

- Analysis of a reference sample from a source external to the laboratory—the most common reference sample is a Standard Reference Material from the National Institute of Standards and Technology (NIST). The reference sample and the period for its use are specified in each method. EPA is considering setting acceptance criteria for standard reference materials to be within some percentage of the true value based on the variability of measurement for that analyte. One possible indicator of that variability is the relative standard deviation calculation for the initial precision and recovery samples. Corrective action to be taken when the acceptance criteria are not met should involve identifying the samples affected, determining the amount of the effect, and if the effect is significant, determining the impact of the effect on the environmental samples analyzed and advising the affected parties.

2. Standardized QC in Other Method-Developing Organizations

During the last several years, EPA has worked closely with ASTM toward the development of standardized QC for incorporation into ASTM methods. One product of this effort is a draft document entitled Standard Practice for Writing Quality Control Specifications for Test Methods for Organic Constituents, which has been approved by the ASTM Committee D–19 on Water. This document, which is made available with this notice, requires standardized QC in all future editions of organic methods and describes how criteria are to be calculated from the results of an interlaboratory method validation study. The main difference between the QC requirements outlined in this document and those produced today is the lack of an ASTM requirement to determine MDLs.

EPA has also worked closely with the Environmental Quality Committee of AOAC-International to standardize and collaboratively test methods that contain comparable QC requirements and performance-based QC criteria. More recently, EPA has begun working with the American Public Health Association, American Water Works Association, and Water Environment Federation toward standardization of QC to be used for methods published in Standard Methods for the Examination of Water and Wastewater and promulgated at 40 CFR Part 136. Similarly, EPA has begun working more closely the U.S. Geological Survey (USGS) toward standardization of QC for USGS methods promulgated at 40 CFR Part 136.

EPA plans to continue efforts with these organizations to advance the universal adoption of standardized QC that would facilitate rapid proposal of methods produced by these organizations at 40 CFR Part 136. Further, if the methods developed by these organizations meet or exceed the needs of the Agency, EPA would rely on these organizations as primary method developers and could focus its own efforts on specialized methods or on esoteric methods needed to support regulation development or compliance monitoring.

E. Requirements for Documenting Front-End Method Equivalency

Under the program envisioned by EPA, flexibility in existing methods will apply to any change in one or more front-end devices and processes as long as these changes do not adversely affect method performance. In exercising this flexibility, laboratories will be required to demonstrate and document that the changes implemented will produce results that are comparable to or better than those produced by the Reference Method.

Demonstration that the method will meet or exceed the performance of the Reference Method and/or regulatory goals requires laboratories to perform the applicable QC tests outlined in Section II.D.1 of this notice and meet the applicable QC acceptance criteria associated with each test. Laboratories that exercise the flexibility offered by this program will be required to maintain all equivalency documentation on file and submit it to their clients (data users) upon request. Permittees that exercise the flexibility offered by this program will be responsible for ensuring that equivalency has been demonstrated by their in-house or contract laboratories and for ensuring that documentation can be provided to permitting authorities upon request.

At a minimum, documentation of method equivalency will include all raw results and summary data generated for each of the QC elements required. Alternatively, laboratories, permittees, or permitting authorities may elect to utilize the checklist provided and described in a document titled Methods Considered Within the Scope of Existing Wastewater Methods Under the EMMC Performance-based Methods System (EMMC PBMS Guidance), made available with this notice.

Minimum data elements that EPA believes must be retained on file (and made available on request) to demonstrate equivalency are as follows.

1. The organization and method number for the modified 40 CFR Part 136 method (Reference Method) used for the measurement.

2. A detailed narrative discussing the modification(s) to the Reference Method. This narrative should provide (1) a detailed description of the changes made to the Reference Method, (2) the reasons for the change, (3) the supporting logic behind the technical approach to the change, and (4) the result of the change. The narrative should be written by an analytical chemist and written in terms that another analytical chemist can understand.

3. A summary level report or data reporting forms listing the pollutants, along with their CAS Registry numbers, for which the modifications were made.

4. A summary of all quality control results required by the Reference Method. These results include, but are not limited to, the following:

- Method-specific instrument tuning.
- Calibration.
- Calibration verification.
- Initial precision and recovery.
- Ongoing precision and recovery.
- Matrix spike and matrix spike duplicate results.
- Surrogate recoveries.
- Internal standard recoveries.
- Labeled compound recoveries.
- Method of standard additions.
- Spectral interference checks.
- Serial dilutions.
- Blank results.
- Quality control charts and limits.
- MDL study results.

Specific QC results vary according to the Reference Method and the instrument used in the determinative step. For example, labeled compound recoveries are associated only with methods that are based on isotope-dilution techniques, and spectral interference checks are typically associated with ICP-AES analyses.

5. Raw data that will allow an independent reviewer to verify each determination and calculation performed by the laboratory.

This verification should consist of tracing the instrument output (peak height, area, emission intensity, or other signal intensity) to the final result reported. Raw data are method and instrument specific and may include, but are not limited to the following:

- Sample numbers or other identifiers used by the both the permittee and the laboratory.

- Sample preparation (extraction/digestion) dates.
- Analysis dates and times.
- Sequence of analyses or run logs.
- Sample weight or volume.
- Extract volume prior to each cleanup step.
- Extract volume after each cleanup step.
- Final extract volume prior to injection.
- Digestion volume.
- Titration volume.
- Percent solids or percent moisture.
- Matrix modifiers.
- Dilution data, differentiating between dilution of a sample and dilution of an extract or digestate.
- Instrument (make, model, revision, modifications) and operating conditions.
- Sample introduction system (ultrasonic nebulizer, hydride generator, flow injection system, etc.).
- Column conditions (manufacturer, length and diameter, stationary phase, solid support, film thickness, chelating or ion exchange resin, etc.).
- Analysis conditions (char/ashing temperatures, temperature programs, incident rf power, flow rates, plasma viewing height, etc.).
- Detectors (type, wavelength, slit, analytical mass monitored, etc.).
- Chromatograms, ion current profiles, bar graph spectra, library search results.
- Background correction scheme.
- Quantitation reports, data system outputs, and other data to link the raw data to the results reported. (Where these data are edited manually, explanations of why manual intervention was necessary must be included).
- Direct instrument readouts; i.e., strip charts, mass spectra, printer tapes, etc., and other data to support the final results.
- Laboratory bench sheets and copies of all pertinent logbook pages for all sample preparation and cleanup steps, and for all other parts of the determination.

The raw data required should be provided for all calibrations, verifications, blanks, matrix spikes and duplicates, and other QC analyses required by the Reference Method as well as any field samples analyzed by the method. Data should be organized so that an analytical chemist can clearly understand how the analyses were performed.

6. Example calculations that will allow the data reviewer to determine how the laboratory used the raw data to arrive at the final results.

Useful examples include both detected compounds and undetected compounds. If the laboratory or the method employs a standardized reporting level for undetected compounds, this should be made clear in the example, as should adjustments for sample volume, dry weight (solids only), etc.

7. For GC/MS and other instruments involving data systems, the permittee should be prepared to submit raw data on magnetic tape or disk, upon request by the regulatory authority.

8. The names, titles, addresses, and telephone numbers of the analysts who performed the analyses and of the quality control officer who will verify the analyses.

If data are collected by a contract laboratory, the permittee will be responsible for ensuring that all of the requirements in the methods are met by the contract laboratory and that all data listed above are provided.

III. Development of QC Acceptance Criteria

Few of methods promulgated at 40 CFR Part 136 contain QC acceptance criteria for all of the standardized QC elements outlined in this notice. (The notable exceptions are the methods published at 40 CFR 136, Appendix A.) As described above, however, QC acceptance criteria are the principle means by which a front-end method modification can be judged to provide results equivalent to or better than results produced by the Reference Method. For those methods that do not contain QC acceptance criteria, EPA plans to employ one of three sources of data for developing these criteria. These sources are (1) interlaboratory study data contained in the promulgated 40 CFR Part 136 analytical method, if available, (2) water supply (WS) and water pollution (WP) study data, or (3) single-laboratory data contained in the promulgated analytical method. In explanation, WS and WP study data result from laboratory performance evaluations conducted periodically by EPA's National Environmental Research Laboratory at Cincinnati (NERL-Ci, formerly EMSL-Ci). By following the statistical techniques described below and detailed in the accompanying supporting document, these WS and WP data, or the performance data contained in an existing analytical method promulgated at 40 CFR Part 136, can be used to establish QC acceptance criteria.

As of the date of publishing this notice, EPA has not developed a means for developing QC acceptance criteria for a method for which EPA has neither WS/WP study data nor performance data, and until such means are developed, EPA will not allow modification of promulgated 40 CFR Part 136 methods for which these data are not available. Although EPA has not surveyed all methods promulgated at 40 CFR Part 136, the Agency believes that the number of methods that (1) do not contain QC acceptance criteria, (2) are not covered by the WS/WP studies, or (3) do not contain performance data, is small. EPA seeks a public discussion of how to establish QC acceptance criteria when data on which to base these criteria are not available.

A. Development of QC Acceptance Criteria From Interlaboratory Study Data

ASTM and AOAC-International have published extensive literature on the statistical treatment of data for interlaboratory collaborative testing of analytical methods, including ''ASTM D–2777'' and Guidelines for Collaborative Study Procedure to Validate Characteristics of a Method of Analysis, JAOAC 72 No. 4, 1989. EPA's Office of Research and Development (ORD) and Office of Science and Technology (OST) have used the ASTM and AOAC-International statistical procedures to produce QC acceptance criteria for analytical methods published by their offices. The specific embodiment of the procedures as used by OST are given in an OST document titled Development of QC Acceptance Criteria, made available with this notice. EPA plans to work with AOAC-International and ASTM to conform these procedures as much as is practicable.

B. Development of QC Acceptance Criteria From WS/WP Study Data

EPA is considering use of WS/WP study data to establish QC acceptance criteria for an analytical method for which these criteria have not been developed. The procedures used will be the same or similar to those in ASTM D–2777 and detailed in the Development of QC Acceptance Criteria document referenced above. EPA envisions that this development will be conducted internally by EPA on an as-needed basis for methods, and that the acceptance criteria will then be proposed for promulgation at 40 CFR Part 136.

C. Development of QC Acceptance Criteria From Method Performance Data

Although few of the methods promulgated at 40 CFR Part 136 have QC acceptance criteria, most of these methods do contain performance data. Usually, these data reflect method performance in a single laboratory. Using the procedure given in the

document titled Development of QC Acceptance Criteria, these performance data can be used to establish QC performance criteria. Basically, this procedure uses the recovery and standard deviation of recovery to establish the QC acceptance criteria, with an additional allowance for interlaboratory variability where applicable. Exact details of these procedures are given in the Development of QC Acceptance Criteria document that is made available with this notice.

IV. Submission of New Methods

The process EPA envisions for submission of new methods encompasses the elements described in this notice. These elements are as follows:

- The method would be written using the guidelines and format described in Section IV.A.,
- The method would incorporate the standardized QC elements described in Section II.E.,
- QC acceptance criteria would be included in the method as described in Section III, and
- The method would be validated for single-use, single-industry use, or nationwide use, as described in Section IV.B.

A. Standardized Method Format

Made available with this notice is a document titled Guidelines and Format for Methods to be Proposed at 40 CFR Part 136. This document is a further development of the Guidelines and Format for EMSL-Cincinnati Methods (EPA–600/8–83–020) produced by EMSL-Ci in 1983. In turn, the Guidelines and Format for EMSL-Ci Methods was based on the ASTM's Form and Style for ASTM Standards, 5th ed., June 1980 (13–000001–80). The Guidelines and Format for Methods to be Proposed at 40 CFR Part 136 incorporates several important aspects of the information presented in this notice. It also incorporates the analytical methods format prescribed by EPA's Environmental Monitoring Management Council (EMMC). The EMMC format is directed at standardizing all Agency analytical methods.

For new methods submitted under the program discussed in this notice, a guideline and format from another organization may be used provided it is standardized and contains the same elements specified in this document. For example, the method format documents from the APHA, AWWA, and WEF for Standard Methods for Examination of Water and Wastewater, and from ASTM, AOAC-International, and USGS are acceptable because these formats are documented and routinely followed by these organizations. Methods produced or approved by organizations that allow random formats would be required to be revised into a standardized format before submission for proposal at 40 CFR Part 136. This requirement would preclude confusion in methods.

B. Method Validation

For purposes of the streamlining contemplated by this notice, EPA presents a tiered approach to validation of new methods. This approach consists of three tiers, dependent on the intended application of the new method. The tiers are single use, use within a given industry, and nationwide use, and the levels of validation required for new or alternate methods are consistent with these uses. As discussed above, only those methods that contain a new or alternate determinative technique would be required to undergo method validation studies.

1. Tier I—Validation of Single-Use Methods

A single-use method would be applicable to a single discharge. Validation would be on that discharge and the method would be applicable to that discharge only. EPA believes that this tier would codify the present flexibility understood to be permitted in monitoring by encouraging permitting authorities and individual dischargers to determine unusual analytes of regulatory concern and to overcome matrix interferences. Method validation would consist of running four replicate tests in a single laboratory to establish single-laboratory performance data and applying the procedures given in the document titled Development of QC Acceptance Criteria to establish QC acceptance criteria for the method from the single-laboratory data.

2. Tier II—Validation of Single-Industry Methods

This tier would be applicable to discharges in a given industry by industrial category or subcategory. Categorical effluent guidelines limitations are promulgated at 40 CFR Parts 400–505. Method validation would consist of running tests of a minimum of one sample from a waste stream from three different facilities in three separate laboratories (a total of nine analyses) to establish laboratory performance data for the QC tests specified in this notice. These performance data would then be used to establish QC acceptance criteria using the document titled Development of QC Acceptance Criteria.

3. Tier III—Validation of Methods for Nationwide Use

Nationwide-use methods would be validated in one of two ways: (1) A classical interlaboratory study would be performed using study designs such as those used by EPA in past studies or by AOAC-International or ASTM and QC acceptance criteria would be developed using the traditional variance components analysis, or (2) a study design that attempts to include all variance components could be used. For example, QC acceptance criteria could be developed by running tests in waste streams from a minimum of nine industrial categories in nine separate laboratories (a total of nine analyses). One of the nine waste streams would be required to be from a publicly owned treatment works (POTW) to ensure coverage of this industrial category. Although the individual variance components would not be known, the overall variance could be estimated from the study. The advantage of this second approach is that the number of tests, and therefore the cost, is minimized. Further details of the use of these two approaches is given in the Development of QC Acceptance Criteria document made available with this notice. EPA seeks a public discussion of the utility of these two approaches.

In order to implement this tiered approach, it is likely that a new table or tables would be published in 40 CFR Part 136 to define the level of validation and use for a method as well as the specific discharge and industrial category for methods that would be proposed and promulgated at Tiers I and II.

As with the other aspects of this notice, EPA seeks a public discussion of this tiered approach and suggestions for other approaches that may be more efficient or less cumbersome. EPA is particularly interested in learning from the regulated community if this approach would aid in reducing monitoring costs and of overcoming matrix interferences. EPA is also particularly interested in learning if this approach would be cumbersome for permitting authorities to administer.

C. Submission Process

Under the system contemplated by this notice, new methods and methods manuals would be submitted to the Office of Science and Technology (OST) which would coordinate proposal of the method(s) under 40 CFR Part 136. The steps involved in developing and preparing a method for proposal are

outlined below. It should be stressed that the preparer should communicate closely with OST throughout this process to ensure that the method will be suitable for proposal at the end of the process.

1. Determination That Method Is New

The preparer should first determine whether the method is a new method or a modification of an existing method under the Agency's method flexibility initiative. The following sources should be consulted in making this determination:

- The FR/CFR reference that implements the system contemplated by this notice [citation].
- Technical Interpretation of Method Flexibility.
- Front-End Techniques that are Candidates for Method Modification under EPA's Method Flexibility Overture.
- Methods Considered Within the Scope of Existing Wastewater Methods Under the EMMC Performance-based Methods System.

2. Method Development

Once it has been determined that a new method is warranted, the method should be developed and documented using the following sources.

- Guidelines and Format for methods to be proposed at 40 CFR Part 136.
- Development of QC Acceptance Criteria.
- The FR/CFR reference that implements the system contemplated by this notice [citation]—Standardized Quality Control.

3. Preliminary Method Submission

Once the method has been written according to a standardized format, the preparer would document plans to validate the method, including a schedule. Section IV.B. Method Validation, should be consulted in planning for appropriate method validation.

4. Method Validation

After writing and initial testing, the preparer would proceed with method validation according to the documented plans. Based on data from the validation study, the method may need to be modified and a further validation study may be required. After completing the validation study(ies), the preparer would write a detailed validation report. EPA may, at a later date, develop the format and requirements for such a report.

5. Preparation of Draft Preamble

Once the method has been properly validated and the method and validation report are ready for submission, the preparer would develop a draft preamble for proposal of the method at 40 CFR Part 136. If the system contemplated by this notice is found to be desirable, a template for the draft preamble could be provided by EPA to assist the preparer.

6. Submission of Final Method, Validation Report, and Draft Preamble

The final method, validation report, and draft preamble would be sent to EPA. EPA would review these documents and communicate with the preparer regarding questions and to clarify any outstanding issues. EPA would then finalize the preamble, include the appropriate documents in the docket, and submit a proposal for inclusion of the method in 40 CFR Part 136 to the **Federal Register** for public comment.

7. Submission of Proprietary Methods or Methods Containing Proprietary Equipment or Substances

Under several statutes, EPA is prohibited from releasing materials marked as confidential business information (CBI) and has treated analytical methods as CBI when so marked. The Agency believes that the objective of promulgating analytical methods is for the full enjoyment by the public in making determinations of pollutants in the environment. Therefore, EPA believes that proprietary methods should not be included in part 136. However, EPA believes that proprietary equipment or substances used in methods should be maintained as confidential. For example, the liquid phases in gas chromatographic columns are usually known by their confidential name, such as DB–1, SPB-octyl, and Dexsil, although EPA also believes that the nature of proprietary equipment and substances eventually becomes known. EPA seeks a public discussion of whether or not confidential methods should be promulgated at 40 CFR Part 136, and whether the practice of including proprietary equipment and substances in methods should be continued, or if EPA should require identification of these equipment and substances.

V. Harmonization of Methods

A. Harmonization of 40 CFR Part 136 Methods With Other EPA Methods

The methods required for NPDES compliance monitoring are the 40 CFR Part 136 Methods. Although there are many similarities between the technical details of methods from other EPA programs and in other methods, it has not been acceptable to date to use another method for NPDES monitoring in place of a 40 CFR Part 136 Method. For instance, methods from the Office of Solid Waste SW–846 manual have not been acceptable. However, with the flexibility discussed in this notice, other methods may be permitted, provided that the requirements given in the method and discussed in this notice and its supporting documents are met. This includes the requirement that the determinative step and specificity are equivalent, and that the performance of the method is equal to or better than the performance of the Reference Method. The Reference Method must be a 40 CFR Part 136 method. The other methods can be EPA methods, methods from other organizations, or methods developed by a laboratory or other organization.

In addition to the allowance for use of other methods, if the requirements described in this notice are followed both in letter and in spirit, methods from several of EPA's analytical programs can be fused into a single method acceptable for use in compliance monitoring under the wastewater program and under the EMMC PBMS. For example, using the checklist described in this notice and detailed in the document titled Methods Considered Within the Scope of Existing Wastewater Methods Under the EMMC Performance-based Methods System (EMMC PBMS Guidance), and the analyte lists and QC acceptance criteria in the methods to be fused, EPA Superfund Contract Laboratory Program (CLP) Method OLM02.0, EPA Office of Groundwater and Drinking Water (OGWDW) Method 524.2, and Office of Solid Waste SW–846 Method 8260 can be made acceptable for use in the wastewater program as a front-end modification of Method 624.

The process consists of using the capillary column specified in methods OLM02.0, 524.2, and 8260; testing for all analytes listed in all methods, performing all performance tests in all methods; and meeting the most stringent of the QC acceptance criteria for each test in all methods. For acceptance in the wastewater program under this notice, it would be necessary to perform the standardized QC described above and meet the QC acceptance criteria in Method 624. In addition, and while operating under Method 624, it would be necessary to spike all analytes listed in the permit, and not just the subset of analytes required as the matrix spike in the CLP method. The spike would therefore be specific to the discharge. Alternatively, all analytes listed in Method 624 could be spiked. Further, if the spiked

analytes are not recovered in the normal range (as specified in the QC acceptance criteria in Method 624), it would be necessary to analyze the QC check sample given in Method 624 to demonstrate that a matrix effect had or had not occurred, and that the laboratory was in control. All other performance requirements in Method 624 would also need to be met and the checklists in the EMMC PBMS Guidance would need to be completed to document the use of a front-end modification of Method 624.

B. Standardization of Methods Across Agency Programs

Under the auspices of EPA's EMMC, the various program offices are working to arrive at a single method that transcends Agency programs for the most commonly used methods. The first method being studied is a method for determination of volatile organics by purge and trap gas chromatography/mass spectrometry (GC/MS). If agreement between the program offices can be reached, this method will encompass the analyte lists and quality control requirements in EPA's Drinking Water, Wastewater, Solid Waste, and Remedial programs. Several possible approaches to the development of analyte lists and QC requirements for consolidated methods are being discussed within the Agency. One possible approach is to examine the QC specifications required by each program and include the most stringent requirements in the consolidated methods. Another possible approach is to re-develop analyte lists and QC specifications for the integrated methods; this approach would necessitate interlaboratory studies that could require extensive Agency resources. EPA seeks a public discussion concerning approaches towards integration of Agency methods.

VI. Other Streamlining Issues

A. Standardized Data Elements for Reporting

EPA is also considering standardized data elements for reporting, with an eye toward reporting of results on magnetic media and via electronic means. In certain of its programs, EPA has been accepting analytical data on magnetic media in precisely defined formats for more than 10 years. However, a more generalized format may have broader use. One such format is the Department of Energy Electronic Data Deliverable Master Specification (DEEMS). EPA seeks a public discussion as to whether the Agency should further pursue electronic formats for reporting data generated using the 40 CFR Part 136 methods.

B. Withdrawal of Outdated Methods

EPA is also considering withdrawal of methods that the Agency believes are obsolete or are no longer used. For example, 40 CFR 136, Table ID, footnote 3 references methods published in 1978 that include thin-layer chromatography (TLC) methods. EPA believes that TLC methods have been outdated by gas chromatography and high performance liquid chromatograph methods for the analytes to which the methods published in 1978 are applied. EPA is therefore considering a careful examination of Tables 1A through 1E of Part 136 for obsolete or outdated methods, and proposing removal of those methods for which newer methods are available.

C. Incorporation by Reference

It is EPA's intention to reduce the number of pages published in the **Federal Register** and the Code of Federal Regulations by incorporating proposed and promulgated methods, respectively, by reference. The approach is intended to reduce the expense of publication in the FR and CFR. EPA also believes that publication in these documents is unnecessary because analytical methods are esoteric in nature and, therefore, not of interest to the general public. In place of publication in the FR and CFR, copies of the methods would be made available through such outlets as the Government Printing Office, the EPA Water Resource Center, the National Technical Information Service, and through meetings such as the Pittsburgh Conference, the annual meeting of the Water Environment Federation, and EPA's Conference on Analysis of Pollutants in the Environment held annually in Norfolk, Virginia. EPA is also exploring distribution of the full text of the proposed and promulgated 40 CFR Part 136 methods on-line.

Consistent with this approach, EPA would also withdraw the 40 CFR 136 Appendix A methods from the CFR and would incorporate these methods by reference, thus reducing the number of pages of material published annually in the CFR by more than 240.

EPA will discuss this removal of methods from publication in the FR and CFR, the use of the Internet for distribution of methods, and other avenues of distribution that could be used to make methods more accessible to interested parties.

VII. Discussion of Information Contained in This Notice

EPA is particularly interested in eliciting constructive discussion that will allow the Agency to incorporate flexibility into existing methods and streamline proposal and promulgation of new methods under 40 CFR Part 136. On the other hand, EPA is interested in compelling reasons why such a program may not work, even with extensive built-in controls to assure that the results produced by modified or new analytical methods are reliable. At this juncture, the floor should be considered open for discussion. EPA looks forward to working with all interested and concerned parties to produce an improved system for methods approval under the 304(h) program.

Dated: September 1, 1995.

Tudor T. Davies,

Director, Office of Science and Technology.

[FR Doc. 95–22608 Filed 9–11–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 372

[OPPTS–400098; FRL–4972–8]

Zinc Oxide; Toxic Chemical Release Reporting; Community Right-To-Know

AGENCY: Environmental Protection Agency (EPA).

ACTION: Denial of petition.

SUMMARY: EPA is denying a petition to delist zinc oxide from the zinc compounds category subject to the reporting requirements under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) and section 6607 of the Pollution Prevention Act of 1990 (PPA). This decision is based on evidence that zinc ion can become available from zinc oxide through several mechanisms and that zinc ion can reasonably be anticipated to be toxic to aquatic organisms.

FOR FURTHER INFORMATION CONTACT: Maria Doa, Petitions Coordinator, 202–260–5997, or e-mail: doa.maria@epamail.epa.gov, for specific information regarding this document. For further information on EPCRA section 313, contact the Emergency Planning and Community Right-to-Know Information Hotline, Environmental Protection Agency, Mail Stop 5101, 401 M St., SW., Washington, DC 20460, Toll free: 800–535–0202, Toll free TDD: 800–553–7672.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Statutory Authority

This action is issued under sections 313(d) and (e)(1) of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), 42 U.S.C. 11023. EPCRA is also referred to as Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986 (Pub. L. 99–499).

B. Background

Section 313 of EPCRA requires certain facilities manufacturing, processing, or otherwise using listed toxic chemicals to report their environmental releases of such chemicals annually. Beginning with the 1991 reporting year, such facilities also must report pollution prevention and recycling data for such chemicals, pursuant to section 6607 of the Pollution Prevention Act of 1990 (PPA), 42 U.S.C. 13106. Section 313 established an initial list of toxic chemicals that was comprised of more than 300 chemicals and 20 chemical categories. Zinc oxide is a zinc compound reportable under the zinc compounds category provided in the initial EPCRA section 313 list of chemicals. Section 313(d) authorizes EPA to add or delete chemicals from the list, and sets forth criteria for these actions. EPA has added and deleted chemicals from the original statutory list. Under section 313(e), any person may petition EPA to add chemicals to or delete chemicals from the list. EPA must respond to petitions within 180 days, either by initiating a rulemaking or by publishing an explanation of why the petition is denied.

EPA issued a statement of petition policy and guidance in the **Federal Register** of February 4, 1987 (52 FR 3479), to provide guidance regarding the recommended content and format for submitting petitions. On May 23, 1991 (56 FR 23703), EPA issued guidance regarding the recommended content of petitions to delete individual members of the section 313 metal compound categories. EPA has also published a statement clarifying its interpretation of the section 313(d)(2) and (3) criteria for adding and deleting chemical substances from the section 313 list (59 FR 61439, November 30, 1994).

II. Description of Petition and Relevant Regulations

On April 4, 1995, EPA received a petition from the American Zinc Association to delete zinc oxide from the compounds reportable under EPCRA section 313 under the zinc compounds category. The petitioner contends that zinc oxide is not the type of compound that should be reported under EPCRA section 313 because zinc compounds are ''Generally Recognized as Safe by the Food and Drug Administration as: a dietary supplement (21 CFR 182.5991); a nutrient (21 CFR 182.5991); and a resinous/polymeric coating (21 CFR 175.300).'' The petitioner adds that ''zinc oxide has been used for decades as a skin ointment—e.g., for diaper rash—and protectant. * * *''

III. EPA's Technical Review of Zinc Oxide

The technical review of the petition to delete zinc oxide from the zinc compounds category focused on the available ecological and environmental fate data. Based on a review of these data, EPA has made the determination that there is sufficient evidence to reasonably anticipate that zinc ion may cause environmental toxicity and that zinc ion can become available in the environment from zinc oxide. The principal concern regarding zinc oxide is its toxicity to aquatic species and its ability to bioaccumulate. Several mechanisms have been identified by which zinc ion can become available in the environment from zinc oxide. For example, zinc ion may become available in the environment from zinc oxide via dissolution in aqueous solutions.

A. Chemistry

Pure zinc oxide (ZnO) is typically a white or yellow-white amorphous powder. Crystalline zinc oxide has a hexagonal crystal structure. Zinc oxide has a reported melting point in the range of 1970 °C to 1975 °C. Zinc oxide is produced by oxidizing zinc vapors in burners. The source of the zinc vapor is either impure zinc oxide or purified zinc metal. Zinc vapor generated from purified zinc metal will provide the highest purity zinc oxide (Refs. 1–4).

An important conversion in the environment is the conversion of zinc oxide to zinc hydroxide. Zinc hydroxide also dissociates in the environment to yield zinc ion. Below 39 °C, zinc oxide reacts slowly with water to form zinc hydroxide ($Zn(OH)_2$). The rate of conversion of zinc oxide to zinc hydroxide is dependent on various factors, the most important of which is temperature. Above 39 °C, ZnO is the stable form.

The reported water solubility of zinc oxide ranges from 1.6 milligrams per liter (mg/L) (29 °C) to 5 mg/L (25 °C). The two most common forms of zinc hydroxide are the amorphous form and the ε-Zn(OH)2 form. The reported water solubility of zinc hydroxide ranges from 2.92 mg/L (18 °C) to 15.5 mg/L (29 °C). These variations in solubility data are most likely due to variations in the solubility tests with respect to the form of zinc used, oxide or hydroxide (the amorphous form of zinc hydroxide is more soluble), pH, temperature, and experimental variability. The solubilities of zinc oxide and zinc hydroxide are at a minimum at pH 9.3. At this pH, the solubility of zinc hydroxide is 0.0822 mg/L for the amorphous form and 0.0041 mg/L for the ε-$Zn(OH)_2$ form. Zinc oxide and hydroxide are insoluble in organic solvents, including alcohols and acetone (Refs. 3, 5-9).

Zinc oxide and hydroxide are amphoteric; they dissolve in acids to form salts and in alkalis to form zincates. Zinc oxide will dissolve in hydrochloric acid, for example, generating zinc chloride ($ZnCl_2$), a salt with appreciable water solubility (432 grams (g) $ZnCl_2$ dissolves in 100 g H_2O at 25 °C). Common zincates include $[Zn(OH)_4]^{-2}$ and $[Zn(OH)3]^{-}$. Zinc oxide also dissolves in ammonia generating the tetraligated complex, $[Zn(NH3)_4]^{+2}$. The conversion of zinc oxides to zinc salts is of importance because of the high solubility of many of the salts in water which would make the zinc ion available (Refs. 1, 2, 10, and 11).

Although zinc oxide may be poorly reactive under some conditions, it is reported that zinc oxide adsorbs carbon monoxide and carbon dioxide. Zinc oxide reacts with carbon dioxide in moist air generating zinc carbonates, in particular zinc oxycarbonate. The reported water solubility of zinc carbonate ranges from 0.01 grams per liter (g/L) (15 °C) to 0.7 g/L (18 °C) (Refs. 1 and 8).

Zinc oxide completely absorbs UV radiation below 366 nanometer (nm), and as a result, is used as a white pigment. A more common use for zinc oxide is as an accelerator, activator and stabilizer in rubber manufacture (Refs. 1 and 2).

B. Environmental Fate

The mechanisms that contribute most to the environmental fate of zinc oxide are dissolution, sorption, and precipitation, all of which are affected particularly by the pH of the media, but also by other factors including temperature. Unlike other zinc compounds (such as zinc sulfide), zinc oxide does not undergo significant microbial transformation.

1. *Water.* The solubility of zinc oxide at pH 7 and 29 °C is approximately 5 to 15 mg/L. Because zinc oxide is amphoteric, it is more soluble at pH values other than 7, particularly values less than 7. Above pH 7, zinc oxide and

zinc hydroxide will dissolve to form other zincates. These zinc compounds are also amphoteric; the availability of zinc ion from these compounds, therefore, is also dependent on their solubility and pH.

In water, zinc ion may associate or react with neutral or ionic compounds to form inorganic salts, stable organic complexes, or inorganic or organic colloids. The quantity of zinc ion available in water from each of these forms is dependent upon the solubility of these forms, pH, temperature, the total amount of the zinc form present in water, and the presence of other metal ions, organic compounds, and inorganic compounds.

Zinc ion will eventually adsorb to sediments. The extent to which this occurs is strongly dependent on pH, temperature, salinity, and the amount of zinc ion present. Below pH 5, minimal soil sorption is expected.

In wastewater treatment plants, zinc oxide is usually removed as a solid. Removal rates usually range up to 90 percent. Any solubilized zinc oxide will be released to surface water as zinc ion in solution with a counter anion in solution.

2. *Land*. The movement of zinc oxide in soils is strongly pH dependent. At pH 7, zinc ion will be available from zinc oxide in soils to the extent that the oxide is solubilized. If the pH falls below 7 in soils, leaching of zinc ion will increase due to the increased solubility of zinc oxide. Sorption of zinc ion to soils will be minimal at pH values less than 5. The sorption of zinc ion to soils, therefore, significantly decreases through a critical pH range of 7 to 5. Zinc ion not adsorbed to soils will eventually end up in the water column (Ref. 12).

3. *Air*. Zinc oxide may be present in the atmosphere in particulate form, originating primarily from dust from manufacturing and processing sites. Deposition of particulate zinc oxide by fallout or washout generally occurs in a short period of time in the vicinity of the emission source.

C. Toxicity Evaluation

EPA's review primarily addressed the environmental toxicity of zinc ion. There is sufficient evidence to indicate that zinc ion may cause environmental toxicity. Zinc ion can become available in the environment from zinc oxide through several mechanisms. Zinc ion can become available from dissolution of zinc oxide in aqueous solution, particularly at pH values between 5 and 7. Zinc ion can become available from the dissolution or reaction of zinc oxide to produce several products of varying solubility, such as zinc hydroxide (generated from the hydrolysis of zinc oxide); zincates (generated from the dissolution of zinc oxide or zinc hydroxide in alkaline solution); zinc salts (including zinc chloride, generated from the dissolution of zinc oxide in a hydrochloric acid solution); and zinc carbonates (generated from the reaction of zinc oxide with carbon monoxide or carbon dioxide in moist conditions).

Based on the availability of zinc ion, zinc oxide may cause adverse environmental effects. In terms of health effects, it should be noted that the predominant concern of most literature available on the toxicology of zinc ion deals with the effects of zinc ion deficit rather than excess. Zinc is classified as an essential nutrient. The National Academy of Science recommends a dietary allowance of 0.21 mg elemental zinc per kilogram per day (kg/day). Zinc is also an essential nutrient to aquatic and terrestrial organisms; it is involved in the synthesis of nucleic acids and enzymes.

Environmental effects (Refs. 13 and 14). By whatever route available, zinc ion exhibits high toxicity to aquatic organisms. This conclusion is based on a substantial amount of information available for zinc ion which includes acute toxicity values lower than 100 parts per billion (ppb), and bioconcentration values higher than 1,000. Numerous studies indicate that zinc ion also has a high chronic toxicity.

a. *Aquatic toxicity*. The available evidence indicates that zinc ion is highly toxic to aquatic organisms and has a high potential to bioaccumulate.

In natural waters, zinc ion occurs in both suspended and dissolved forms. It can exist as a simple hydrated ion; as various inorganic salts; in stable organic complexes; or adsorbed into or occluded in, inorganic or organic colloids. The quantity of zinc ion available from each of these forms is dependent upon pH, temperature, and the total amount of the zinc form present in water, and the presence of other metal ions or organic and inorganic compounds. Zinc is eventually partitioned into sediments. Zinc ion bioavailability from sediments is enhanced under conditions of high dissolved oxygen, low salinity, low pH, and high levels of humic substances. Zinc ion remaining in sediments may be toxic to or bioaccumulate in sediment organisms.

The levels of acute toxicity for zinc ion to various fish and invertebrates range from 40 ppb to 58,100 ppb. This wide range is partially due to the hardness of the water used in the studies; generally as water hardness increases the acute toxicity of zinc ion decreases. The 96–hour LC_{50} (median lethal concentration) for rainbow trout in a flow-through system was 93 ppb. The 96–hour LC_{50} for cutthroat trout was 90 ppb. The 48–hour LC_{50} value for a daphnid species was 40 ppb. Acute toxicity EC_{50} values of 40 and 100 ppb were noted in daphnids.

Numerous other acute tests have been conducted on estuarine and marine invertebrates and fish. EC_{50} values of 310 ppb and 166 ppb were calculated by testing oysters and hard shelled clams, respectively. EC_{50} values for a copepod, mysid shrimp, lobster, and hermit crab were 210 ppb, 498 ppb, 175 ppb, and 400 ppb, respectively. Estuarine and marine fish were less sensitive to zinc ion than invertebrates. The LC_{50} values ranged from 2,730 ppb for larvae of Atlantic silversides to 83,000 ppb for larvae of mummichog.

Zinc ion exhibits high chronic toxicity in the aquatic environment. The maximum acceptable toxicant concentration (MATC) in soft water was 36 to 71 ppb for rainbow trout fry (hatching from unexposed eggs). The MATC for fathead minnows, based on spawning and hatching success and fry survival, in hard water (200 mg/L as $CaCO_3$) was 30 to 180 ppb. The MATC for this fish in soft water was 78 to 145 ppb.

In invertebrates (*Daphnia magna*), reproduction was impaired by 10 percent after a 21–day exposure to 70 ppb zinc ion. Cell growth was inhibited in algae (*Selenastrum capricornutum*) after exposure for 7 days at a concentration of 30 ppb, and the EC_{95} for growth after exposure for 14 days was 68 ppb.

Marine algae are very sensitive to zinc. Growth was inhibited in kelp (*Laminaria hyperiborea*) at 100 ppb and in algae (*Skeletonema costatum*) at 50 ppb. Cell numbers decreased in three species of marine algae, *Gymnodinium splendens, Schroderella schroederi, and Thalassiosira rotula,* at 100 ppb, 50 ppb, and 100 ppb, respectively.

b. *Bioaccumulation*. Zinc ion can reasonably be anticipated to bioaccumulate in aquatic organisms. Bioconcentration factors (BCFs) of 1,130 and 432 were noted in mayflies and flagfish, respectively. BCFs for marine algae (*Cladophora and Fucus serratus*) and oysters were noted to be 4,680, 16,600, and 16,700, respectively.

D. Technical Summary

The technical review of the petition to delete zinc oxide from the zinc compounds category focused on the ecological and environmental fate data. Based on a review of these data, EPA has made the determination that there is

sufficient evidence to reasonably anticipate that zinc ion may cause environmental toxicity and that zinc ion can become available in the environment from zinc oxide. The principle concern regarding zinc oxide is its toxicity to aquatic species and its ability to bioaccumulate. Several mechanisms have been identified by which zinc ion can become available in the environment from zinc oxide (see Unit III.A. and B. of this preamble). Zinc ion may become available in the environment from zinc oxide via dissolution in aqueous solutions particularly between the pH range of 5 and 7.

IV. Rationale for Denial

EPA is denying the petition submitted by the American Zinc Association to delete zinc oxide from the reporting requirements under the zinc compounds category of the EPCRA section 313 list of toxic chemicals. This denial is based on: (1) The Agency's conclusion that zinc ion can become available from zinc oxide, and (2) the determination that there is sufficient evidence to indicate that zinc ion causes aquatic toxicity. Several mechanisms have been identified where zinc ion can become available in the environment from zinc oxide, particularly dissolution in aqueous solutions.

Additionally, zinc oxide and zinc hydroxide may dissolve in acids or alkalis to form salts or zincates, respectively. Many zinc salts are particularly water soluble, allowing another pathway by which zinc ion may become available. Due to these mechanisms, which may result in the availability of zinc ion from zinc oxide, zinc oxide contributes to the overall loading of zinc ion to the environment.

EPA has determined that zinc ion can reasonably be anticipated to cause a significant adverse effect on the environment of a sufficient seriousness to warrant continued reporting of zinc oxide under EPCRA section 313 because of zinc ion's high toxicity to aquatic organisms and its tendency to bioaccumulate in the environment. Concern regarding these effects are in accordance with the criteria in EPCRA section 313(d)(2)(C). Because zinc oxide can reasonably be anticipated to be highly ecotoxic and induce well-established serious adverse effects, EPA does not believe that an exposure assessment is necessary to make the determination required by EPCRA section 313(d)(2)(C).

In reference to the petitioner's contention that zinc oxide should not be included on the EPCRA section 313 list because zinc compounds are ''Generally Recognized as Safe by the Food and Drug Administration,'' EPA is not persuaded that this is a sufficient basis for removing zinc oxide from the list. While EPA agrees that zinc is classified as an essential nutrient and, in terms of human health effects, the predominant concern cited in most of the available literature deals with the effects of zinc ion deficit rather than excess, this is not the whole picture. EPA, in making its listing decisions under section 313 of EPCRA, considers a different set of issues than those addressed by FDA in its regulatory decisions. Specifically, EPA considers the potential for adverse impacts on the environment, as well as those on human health. As indicated by the regulatory citations provided by the petitioner in support of its contention, FDA's focus is on human health effects. In the particular case of zinc oxide, EPA's decision to deny the petition to delist is based on the environmental impacts of the chemical.

V. References

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(4) Dean, J.A., ed., Lange's Handbook of Chemistry, 13th ed., McGraw-Hill, pp. 4–131, New York (1985).

(5) ATSDR, Toxicological profile for zinc. US Department of Health and Human Services, Public Health Service, Agency for Toxic Substances and Disease Registry, p. 109 (1994).

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(9) Pourbaix, M., Atlas of Electrochemical Equilibria in Aqueous Solutions, National Association of Corrosion Engineers, pp. 406–413, Houston (1974).

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(11) Pauling, L., General Chemistry, 3rd ed., Freeman and Company, San Francisco (1970).

(12) Bodek, I., Environmental Inorganic Chemistry, Properties, Processes, and Estimation Methods, Pergamon Press, pp. 7.15/1–7.15/11, New York (1988).

(13) USEPA/OPPT, Smrchek, Jerry C., Petition to Delist Zinc Sulfide-Hazard Review dated March 28, 1990.

(14) USEPA/OPPT, Meyn, Ossi, Petition to Delist Zinc Oxide dated June 21, 1995.

VI. Administrative Record

The record supporting this decision is contained in docket number OPPTS–400098. All documents, including an index of the docket, are available to the public in the TSCA Nonconfidential Information Center (NCIC), also known as the Public Docket Office, from noon to 4 p.m., Monday through Friday, excluding legal holidays. The TSCA NCIC is located at EPA Headquarters, Rm. NE–B607, 401 M St., SW., Washington, DC 20460.

List of Subjects in 40 CFR Part 372

Environmental protection, Chemicals, Community right-to-know, Reporting and recordkeeping requirements, and Toxic chemicals.

Dated: September 1, 1995.

Lynn R. Goldman,

Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

[FR Doc. 95–22618 Filed 9–11–95; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 95–53; RM–8613]

Radio Broadcasting Services; Eugene, OR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; denial.

SUMMARY: The Commission denies the request of Conway Broadcasting to allot Channel 265A to Eugene, Oregon, as the community's fifth local FM service. *See* 60 FR 11644, March 2, 1995. The Commission found that Channel 265A cannot be allotted to the community in compliance with the Commission's technical requirements. With this action, this proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MM Docket No. 95–53, adopted August 30, 1995, and released September 7, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–22570 Filed 9–11–95; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 12-Month Finding for a Petition To List the Southern Population of Walleye as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 12-month petition finding.

SUMMARY: The Fish and Wildlife Service (Service) announces a 12-month finding for a petition to list the southern population of walleye (*Stizostedion vitreum*) under the Endangered Species Act of 1973, as amended. After review of all available scientific and commercial information, the Service finds that listing this species is not warranted at this time.

DATES: The finding announced in this document was made on September 1, 1995.

ADDRESSES: Data, information, comments, or questions pertaining to this petition should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, Jackson Office, 6578 Dogwood View Parkway, Suite A, Jackson, Mississippi 39213. The petition finding, supporting data, and comments are available for public inspection, by appointment during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Dr. Ron Larson at the above address (601–965–4900, ext. 27).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(B) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires that, for any petition to revise the Lists of Endangered and Threatened Wildlife and Plants that presents substantial scientific and commercial information, the Service make a finding within 12 months of the date of the receipt of the petition on whether the petition action is: (a) not warranted, (b) warranted, or (c) warranted but precluded from immediate proposal by other pending proposals of higher priority. Section 4(b)(3)(C) requires that petitions for which the requested action is found to be warranted but precluded should be treated as though resubmitted on the date of such finding, that is, requiring a subsequent finding to be made within 12 months. Such 12-month findings are to be published promptly in the **Federal Register**.

On August 22, 1994, the Service received a petition dated August 20, 1994, from Mr. Robert R. Reid, Jr., of Birmingham, Alabama, to emergency list the southern population of walleye (*Stizostedion vitreum*) as endangered. The Service made a 90-day finding, concluding that the petition and Service files contained substantial information indicating that the requested action may be warranted. An announcement of that finding was published in the **Federal Register** on March 13, 1995 (60 FR 13397). A status review was initiated on March 13, 1995, and the public comment period was open between March 13, and May 12, 1995.

The Service has reviewed the petition, literature cited in the petition, information received by the Service during the comment period, other available literature and information, and consulted with biologists and researchers familiar with the southern population of walleye. On the basis of the best scientific and commercial information available, the Service find that listing is not warranted at this time. The status review revealed that the southern population of walleye has likely declined; however, convincing data on biological vulnerability and range-wide threats are not available to support a proposed rule for listing at this time.

Information obtained during the status review indicated that native walleye historically occurred in the lower Mississippi and Pearl rivers in Mississippi; in all eight Mobile Basin drainages in Alabama, Georgia, Mississippi, and in a small area of Tennessee; and in the Escambia River of Alabama (Brown 1962, Schultz 1971, Hackney and Holbrook 1978, Moss *et al.* 1985, Mettee *et al.* 1989a, 1989b). Genetic analyses, based on protein electrophoresis and mitochondrial-DNA, have demonstrated that the walleye native to the Mobile Basin is distinctive (Wingo 1982, Murphy 1990, Billington *et al.* 1992, Billington and Strange in press). This population, herein referred to as the ''southern walleye,'' is currently known from seven Mobile Basin (Basin) drainages. The southern walleye is a large freshwater fish that reaches weights of 2 pounds (4 kg) or more (Schultz 1971, Moss *et al.* 1985). Southern walleye occur mostly in rivers and larger streams, but they may also occur in impoundments and channelized rivers. They are migratory and move upstream, or into smaller streams in winter and early spring, to spawn on clean sand and gravel substrates (Schultz 1971, Kingery and Muncy 1988).

Southern walleye populations appear to be small. In fish surveys, they often comprise less than one percent of a collection (Brown 1962, Schultz 1971). However, adult walleye are frequently found in deep holes and associated with submerged logs; habitats that are not readily sampled. Based on what appear to be spawning runs, there are at least five potential spawning areas located throughout the Basin, but considering the walleye's extensive distribution, additional spawning sites are likely.

The status review disclosed that the southern walleye has likely declined in population size and distribution owing to considerable habitat modification that has occurred over much of its range. Locks and dams block or restrict walleye movement and may inundate historic spawning habitat. Additional habitat has been altered by channelization, desnagging, gravel mining, and headcutting. Local declines in water quality from point and nonpoint source pollution also may affect stream reaches occupied by walleye. Angling may reduce reproduction in Alabama because mature fish are caught when concentrated at spawning sites.

Some of the major threats, *e.g.*, dam construction, channelization, and water pollution, appear to have recently stabilized. Illegal gravel mining remains a problem in several coastal plain areas because of inadequate detection and enforcement. Headcutting continues to be a threat in areas such as the upper Tombigbee where geomorphic instability has resulted from channelization, gravel dredging, and other channel modifications (Hartfield 1992). However, these problems are

localized in relatively small portions of the southern walleye's known and potential range within the Basin. The review identified several potential threats to two spawning sites, but there was insufficient data to infer that other spawning areas are threatened.

Despite these identified threats, the Service found that an accurate assessment of the current status and population trends of the southern walleye was not possible due to a lack of recent and historic information on populations (*e.g.,* distribution and abundance within drainages), and number, location, and condition of spawning sites. The status review identified only one comprehensive report on the walleye's status (Schultz 1971), and that report covered only a small portion of the species' range.

The Service believes that the southern walleye is still sufficiently abundant that timely management and conservation efforts can improve its status. Attempts by the State of Mississippi to enhance southern walleye populations by closing fishing and operating an experimental walleye hatchery are meritorious. Similar efforts by other states could enhance southern walleye populations throughout its range.

The Service will retain the southern walleye as a species of concern and continue to seek information on the species and monitor its status. If additional data become available, the Service may reassess the need for listing and propose listing as necessary.

Further details regarding the biological status of the species are contained in the administrative finding, which can be obtained by contacting the office indicated in the **ADDRESSES** section of this notice.

References Cited

A complete list of all references cited herein, as well as others, is available upon request from the Jackson Field Office (see **ADDRESSES**).

Author

The primary author of this document is Dr. Ron Larson, Jackson, Mississippi, Field Office (see **ADDRESSES** section).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: September 1, 1995.

John G. Rogers,

Director, Fish and Wildlife Service.

[FR Doc. 95–22624 Filed 9–11–95; 8:45 am]

BILLING CODE 4310–55–M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Notice of Availability of Reports and Other Data Pertaining to the Listing of the Bruneau Hot Springsnail

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability, opening of public comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service) gives notice that reports and other data pertaining to the listing of the Bruneau hot springsnail (*Pyrgulopsis bruneauensis*) are available to the public. Specifically, the Service is seeking public comment on a U.S. Geological Survey report and other reports and data received since the listing of the springsnail. In addition, the Service solicits any other information relevant to determining whether the springsnail should be listed as an endangered species. The Service opens the public comment period until November 13, 1995.

DATES: The comment period is open until November 13, 1995. Any comments and materials received by the closing date will be considered in the final determination.

ADDRESSES: Comments and materials concerning the reports and other information pertaining to the listing of the Bruneau hot springsnail should be submitted to the U.S. Fish and Wildlife Service, Snake River Basin Office, 4696 Overland Road, Room 576, Boise, Idaho 83705. Reports and other data cited in this notice, and public comments and other materials received will be available for public inspection during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Robert Ruesink, Supervisor, at the address listed above (telephone 208/334–1931, facsimile 208/334–9493).

SUPPLEMENTARY INFORMATION:

Background

On January 25, 1993, the U.S. Fish and Wildlife Service (Service) published a final rule in the **Federal Register** determining the Bruneau hot springsnail (*Pyrgulopsis bruneauensis*) to be an endangered species (58 FR 5946). In its decision to the list the springsnail the Service relied, in part, on a provisional draft of a U.S. Geological Survey (USGS) report (Berenbrock 1992) analyzing the hydrology of the geothermal aquifer in the Bruneau Valley area. The USGS provided the Service with the draft report, but did not release it to the public and requested that the Service not release the report to the public, pending agency review and approval.

On May 7, 1993, the Idaho Farm Bureau Federation, Owyhee County Farm Bureau, Idaho Cattleman's Association, and Owyhee County Board of Supervisors challenged the listing decision on several grounds in a lawsuit filed in United States District Court for the District of Idaho. The plaintiffs argued that the Service committed a number of procedural violations during the listing process, including not allowing the public to review the draft USGS report. On December 14, 1993 the district court determined that the Service committed several procedural errors and set aside the final rule listing the springsnail as an endangered species.

The district court decision was appealed to the United States Court of Appeals for the Ninth Circuit by two intervening conservation groups, the Idaho Conservation League and Committee for Idaho's High Desert. On June 29, 1995 the appellate court overturned the district court decision and reinstated the Bruneau hot springsnail to the endangered species list. However, the appellate court concluded that the Service should have made the draft USGS report (i.e., Berenbrock 1992) available for public review, as the Service relied largely on this report to support the final listing rule. The appellate court directed the Service to provide an opportunity for public comment on the USGS report and other relevant information, and to reconsider its listing decision. This notice of availability complies with the court's direction.

Available Reports and Data

In addition to the draft USGS report, which was finalized in August 1993 (i.e., Berenbrock 1993), the Service has additional reports and information pertinent to the listing decision received since the original listing rule was published January 25, 1993. The following information contained in

Service files is available for public review and comment:

Berenbrock, C. 1992. Effects of well discharges on hydraulic heads in and spring discharges from the geothermal aquifer system in the Bruneau area, Owyhee County, southwestern Idaho. U.S. Geological Survey, Water-Resources Investigations, Boise, Idaho. Preliminary report.

Berenbrock, C. 1993. Effects of well discharges on hydraulic heads in and spring discharges from the geothermal aquifer system in the Bruneau area, Owyhee County, southwestern Idaho. U.S. Geological Survey, Water-Resources Investigations Report 93–4001, Boise, Idaho.

Bruneau Valley Coalition, Inc. 1995. Habitat maintenance and conservation plan for the Bruneau hot springsnail, January, 1995. Unpublished plan.

Bruneau Valley Coalition, Inc. 1995. Proposed amendment to the ''Threatened and Endangered Species'' section of the Interim Comprehensive Land Use Plan for the federally and state managed lands in Owyhee County. Unpublished amendment.

Idaho Water Resources Research Institute. 1994. Bruneau hot springs aquifer restoration report: a preproposal. Unpublished report, University of Idaho, Moscow, Idaho.

Lee, J. A. 1994. Summary report for the control survey of the Bruneau hot springsnail. Unpublished report, Bureau of Land Management, Boise District Office, Boise, Idaho.

Mladenka, G. C. 1993. Report on the 1993 Bruneau hot springsnail site survey. Unpublished report.

Mladenka, G. C. 1995. Bruneau Hot Springs invertebrate survey. Unpublished report, Stream Ecology Center, Idaho State University, Pocatello, Idaho.

Royer, T. V. and G. W. Minshall. 1993. 1993 Annual Monitoring Report: Bruneau hot springsnail (*Pyrgulopsis bruneauensis*). Unpublished report, Stream Ecology Center, Idaho State University, Pocatello, Idaho.

U.S. Geological Survey. 1995a. Unpublished letter summarizing results of Bruneau-area ground water-level and spring discharge monitoring data through December 1994. Boise, Idaho.

U.S. Geological Survey. 1995b. Unpublished letter commenting on Idaho Water Resources Research Institute's report and summarizing provisional, spring discharge data collected from June 1994 through July 1995 from three hot springs above Hot Creek, Idaho.

Varricchione, J. T. and G. W. Minshall. 1995. 1994 Monitoring Report: Bruneau hot springsnail (*Pyrgulopsis bruneauensis*). Technical Bulletin No. 95–14, Idaho Bureau of Land Management.

Varricchione, J. T. and G. W. Minshall. 1995. Gut content analysis of wild *Gambusia* and *Tilapia* in Hot Creek, Bruneau, Idaho. Unpublished report, Idaho State University, Pocatello, Idaho.

Authority

The authority for this action is the Endangered Species Act, as amended (16 U.S.C. 1531–1544.)

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Dated: September 1, 1995.

Thomas J. Dwyer,

Regional Director, Region 1, U.S. Fish and Wildlife Service.

[FR Doc. 95–22586 Filed 9–11–95; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[RIN 1018–AD11]

Endangered and Threatened Wildlife and Plants; Reopening of Comment Period and Notice of Public Hearing on Proposed Endangered Status for Three Wetland Species in Southern Arizona and Northern Sonora

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period and notice of public hearing.

SUMMARY: The U.S Fish and Wildlife Service (Service) gives notice that a public hearing will be held and the comment period reopened on the proposed rule to list two plants, Canelo Hills ladies'-tresses (*Spiranthes delitescens*) and Huachuca water umbel (*Lilaeopsis schaffneriana* spp. *recurva*), and one amphibian, the Sonora tiger salamander (*Ambystoma tigrinum stebbinsi*) as endangered. The hearing and the reopening of the comment period will allow all interested parties to submit oral or written comments on the proposal.

DATES: The public hearing will be held from 7 p.m. to 10 p.m. on September 27, 1995, in Sierra Vista, Arizona. The comment period for this proposal will be reopened on September 11, 1995 and will close on October 27, 1995. Comments must be received by the closing date. Any comments that are received after the closing date may not be considered in the final decision on the proposal.

ADDRESSES: The public hearing will be held at the Buena Performing Arts Center, Buena High School, 5225 Buena School Boulevard, Sierra Vista, Arizona. Written comments should be sent to the State Supervisor, U.S. Fish and Wildlife Service, 2321 W. Royal Palm Road, suite 103, Phoenix, Arizona 85021. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above Service address.

FOR FURTHER INFORMATION CONTACT: Jeffrey A. Humphrey, at the above address, 602/640–2720.

SUPPLEMENTARY INFORMATION:

Background

Canelo Hills ladies'-tresses, Huachuca water umbel, and the Sonora tiger salamander occur in a limited number of wetland habitats in southern Arizona and northern Sonora, Mexico. They are threatened by one or more of the following—collecting, disease, predation, competition with nonnative species, catastrophic floods, drought, and degradation and destruction of habitat resulting from livestock overgrazing, water diversions, dredging, and groundwater pumping. All three taxa are also threatened with stochastic extirpations or extinction due to small numbers of populations or individuals. A proposed rule to list these species as endangered was published in the **Federal Register** (60 FR 16836) on April 3, 1995.

Pursuant to 50 CFR 424.16(c)(2), the Service may extend or reopen a comment period upon finding that there is good cause to do so. Full participation of the affected public in the species listing process, allowing the Service to consider the best scientific and commercial data available in making a final determination on the proposed action, is deeded as sufficient cause.

Anyone wishing to make an oral statement for the record is encouraged to provide a written copy of their statement and present it to the Service at the start of the hearing. In the event there is a large attendance, the time allotted for oral statements may have to be limited. Oral and written statements receive equal consideration. There are no limits to the length of written comments presented at the hearings or mailed to the Service. Legal notices announcing the dates, times, and locations of the hearings will be published in newspapers concurrently with the **Federal Register** notice.

Previous comment periods on this proposal closed on June 2, 1995 and July 24, 1995. In order to accommodate this additional hearing, the Service reopens the public comment period. Written comments may now be submitted until October 27, 1995, to the Service office in the **ADDRESSES** section.

Author

The primary author of this notice is Jeffrey A. Humphrey (see **ADDRESSES**).

Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531–1544 *et seq.*).

Dated: September 8, 1995.

Jay L. Gerst,

Acting Director, Fish and Wildlife Service.

[FR Doc. 95–22794 Filed 9–11–95; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 641

[Docket No. 950810–206–5224–02; I.D. 082395A]

RIN 0648–AG29

Reef Fish Fishery of the Gulf of Mexico; Amendment 11

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule, request for comments.

SUMMARY: NMFS issues this proposed rule to implement Amendment 11 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). Amendment 11 proposes to revise the framework procedure for modifying management measures, change the definition of optimum yield (OY), restrict the sale/purchase of reef fish harvested from the exclusive economic zone (EEZ) to permitted reef fish vessels/dealers, allow transfer of reef fish permits and fish trap endorsements under specified circumstances, implement a new reef fish permit moratorium, and require charter vessel and headboat permits. NMFS, based on a preliminary evaluation of Amendment 11, has disapproved three of the measures in the amendment because they are inconsistent with the Magnuson Fishery Conservation and Management Act (Magnuson Act). The proposed rule would implement the remaining measures in Amendment 11. The intended effects of the proposed rule are to improve procedures for timely management, relieve restrictions and hardships, and enhance enforceability of the regulations.

DATES: Written comments must be received on or before October 27, 1995.

ADDRESSES: Comments on the proposed rule must be sent to Robert Sadler, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

Requests for copies of Amendment 11, which includes an environmental assessment, a regulatory impact review (RIR), and an initial regulatory flexibility analysis (IRFA), should be sent to the Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 331, Tampa, FL 33609.

Comments regarding the collection-of-information requirement contained in this proposed rule should be sent to Edward E. Burgess, Southeast Regional Office, NMFS, 9721 Executive Center Drive, St. Petersburg, FL 33702 and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Michael E. Justen or Robert Sadler, 813–570–5305.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the FMP. The FMP was prepared by the Gulf of Mexico Fishery Management Council (Council) and is implemented through regulations at 50 CFR part 641 under the authority of the Magnuson Act.

Minor Revisions to the FMP's Procedure

The Council has proposed editorial changes to the FMP's annual procedure for specifying total allowable catch (TAC) to reflect its current practice of Socioeconomic Panel review of the annual stock assessments. The Council also proposes to specify in the procedure that the recovery period will be set by the Council, not the Stock Assessment Panel. These changes are described in Amendment 11 and are not repeated here.

Allowance for TAC to Exceed Allowable Biological Catch

The Council has proposed to modify the language of the procedure to allow TAC to exceed the allowable biological catch (ABC) level specified for stocks not assessed as overfished. The purpose of this measure is to allow a digression from maintaining TAC at or below ABC when necessary to address short-term economic or social concerns. The Council's intent is to ease restrictions in setting TAC, and to make the FMP consistent with similar language in the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic.

This measure does not have any time constraints or upper limits for the digression. Application of this approach is risk prone in that it would not assure the prevention of overfishing before the Council could take corrective action. Therefore, NMFS has determined that this measure is inconsistent with National Standard 1 of the Magnuson Act. Accordingly, the Director, Southeast Region, NMFS (Regional Director), finds that this provision must be disapproved under the Magnuson Act and has not included it in this proposed rule.

Biological Generation Time

The FMP's procedure provides for specification of a recovery period for each stock up to 1.5 times the biological generation time. The ''biological generation time'' specified in the FMP is equal to the age at which the average female achieves half of her expected lifetime egg production. Recovery periods longer than 1.5 times the biological generation time may be proposed by amendment to the FMP.

The Council is proposing to increase the upper limit for specification of the recovery period for red snapper from 1.5 to 2.0 times the biological generation time, or other biologically based recovery period developed by the Reef Fish Stock Assessment Panel, Socioeconomic Panel, Scientific and Statistical Committee, and Advisory Panel and approved by the Council. The upper limit of 2.0 times the biological generation time equates to a maximum recovery target year of 2017, assuming a biological generation time for red snapper of 13.6 years (with a natural mortality rate estimate of M = 0.2).

The Council selected this alternative because many fishermen are heavily dependent on red snapper, and the increased flexibility will allow greater consideration of social and economic considerations in the recovery schedule for this species.

Given the known overfished state of the red snapper stock, this change increases the chances of a stock collapse in the event of one or more year class recruitment failures rather than assuring the prevention of overfishing. Accordingly, NMFS has determined that this measure is inconsistent with National Standards 1 (prevention of overfishing) and 2 (best available scientific information). Accordingly, the Regional Director finds that this provision must be disapproved under the Magnuson Act and therefore has not included it in this proposed rule.

Changes to the FMP's Definition of Optimum Yield

The current definition of OY is to stabilize long-term population levels of all reef fish species by establishing a certain survival rate of biomass into the stock of spawning age to achieve at least 20 percent spawning potential ratio (SPR). The Council considered several OY definitions based on the recommendation of the SPR Strategy Committee that OY should not be the same as the definition of overfishing. The Council proposes to set OY based on an SPR level corresponding to $F_{0.1}$ until an alternative operational definition that optimizes ecological, economic, and social benefits to the Nation has been developed by Reef Fish Stock Assessment Panel, Socioeconomic Panel, Scientific and Statistical Committee, and Reef Fish Advisory Panel, and approved by the Council. Under current management conditions, SPR at $F_{0.1}$ is approximately 34 percent for red snapper, 46 percent for red grouper, and 48 percent for gag.

The proposed management regime sets OY for each stock based on a spawning potential ratio (SPR) level corresponding to $F_{0.1}$ until an alternative operational definition that optimizes ecological, economic and social benefits to the Nation has been developed. However, the Southeast Fisheries Science Center (SEFSC) has determined that the analysis underlying this OY definition is incomplete. For example, the Council's document failed to address the relationship between this formula and the issues of bycatch and minimum size. A complete analysis of the impact of bycatch and minimum size on the formula would reveal extreme ranges in SPR targets from year to year, causing significant instability in the fishery. Without a thorough review of the impacts of this proposed OY definition, this information cannot be considered the best scientific information available. Therefore, NMFS has determined that this measure is inconsistent with National Standard 2. Accordingly, the Regional Director finds that this provision must be disapproved under the Magnuson Act and it is not included in this proposed rule.

Use of $F_{0.1}$ to define OY also would be inconsistent with National Standard 1. Under National Standard 1, the most important limitation on the specification of OY is that the choice of OY, and the conservation and management measures designed to achieve it, must prevent overfishing. Since use of $F_{0.1}$ is not appropriate for the reef fish fisheries, there is no assurance that the choice of OY and the conservation and management measures selected to achieve OY will actually prevent overfishing.

Restrictions on Reef Fish Transactions

To ensure that catches of reef fish are properly tracked, the sale of reef fish harvested by a vessel with a Federal commercial permit would be allowed only to a federally permitted dealer. A federally permitted dealer would be allowed to purchase reef fish harvested in the EEZ only from a vessel with a Federal commercial reef fish permit. These requirements would: (1) Improve quota monitoring by providing a census of reef fish dealers; (2) enhance the enforceability of the dealer and vessel permit requirements; and (3) aid in verifying required vessel logbook submissions.

Transfer of Fish Trap Endorsements

Currently, transfer of a fish trap endorsement is allowed upon change of ownership of a vessel with a fish trap endorsement from one to another of the following: Husband, wife, son, daughter, brother, sister, mother, or father. No provisions are made for permanent or temporary transfers of fish trap endorsements when a vessel with such endorsement has a change of ownership that is directly related to the disability or death of the owner. The Council has learned of hardships that have resulted from the non-transferability of fish trap endorsements upon the disability or death of the vessel owner. To alleviate such hardships, the Council proposes that the Regional Director have authority to transfer or revise the fish trap endorsements, either temporarily or permanently, upon the disability or death of such owner. Transfer/revision would be in accordance with instructions of the owner or his/her legal guardian, in the case of a disabled owner, or of the will or executor of the estate, in the case of a deceased owner.

One-time Transfer of Fish Trap Endorsements

The regulations implementing Amendment 5 (59 FR 966, January 7, 1994) established a fish trap endorsement to the vessel permit that allowed use of fish traps by certain fishermen and established a 3-year moratorium on the issuance of additional endorsements, effective February 7, 1994. To qualify for the endorsement, persons must have had logbook records of landings of reef fish from traps during the period 1991 through November 19, 1992. Some persons who had invested in gear and vessels to participate in the trap fishery, but had not participated prior to November 19, 1992, were denied the privilege of fishing in that fishery. Amendment 11 would allow a one-time transfer of fish trap endorsements in effect on September 12, 1995, to vessels with a commercial vessel permit whose owners have a record of landings of reef fish from traps in the EEZ, as reported on fishing vessel logbooks received by the Science and Research Director from November 20, 1992, through February 6, 1994. The proposed transfer of current endorsements, some of which are not being used to fish traps, would provide the opportunity to participate in the fish trap fishery for the duration of the moratorium to persons who entered the fishery without being aware of the impending moratorium and were subsequently excluded.

Moratorium on Reef Fish Commercial Vessel Permits

The current moratorium on issuance of new commercial vessel permits in the reef fish fishery is scheduled to end on December 31, 1995. Amendment 11 proposes a new moratorium while the Council considers limited access for the reef fish fishery. Commercial permits under the new moratorium would be restricted initially to vessels whose permits are eligible for renewal on December 31, 1995. Under the proposed new moratorium, an owner whose earned income qualified for the permit may transfer the permit to the owner of another vessel or to a person purchasing the commercially permitted vessel. Such new owner may receive a commercial permit for that vessel, and renew it for the first calendar year after obtaining it, without meeting the earned income requirement. However, to renew the commercial vessel permit for the second calendar year after the transfer, the new owner must meet the earned income requirement not later than the first calendar year after the vessel acquires the permit.

The proposed moratorium would continue for up to 5 years, that is, through not later than December 31, 2000, while the Council considers a permanent limited access system for the reef fish fishery. Section 303 of the Magnuson Act provides that the Council may establish a system for limiting access to the fishery in order to achieve OY if, in developing such system, the Council takes into account several factors. As the proposed moratorium has implications of limited access, Amendment 11 contains the Council's determinations on those factors.

Charter Vessel and Headboat Permits

Currently, permits are required to operate as charter vessels or headboats

in the EEZ under the FMP for coastal migratory pelagic resources, but not for reef fish. Amendment 11 proposes that reef fish charter vessels and headboats be required to obtain annual permits. Such permits would aid in monitoring this segment of the fishery and in identifying vessels that may qualify for the 2 day possession limit applicable to charter vessels and headboats under certain conditions. Other benefits include: Use of permit sanctions for curbing the activities of repeat offenders, efficient deployment of enforcement resources, and improvement of basic statistics for use in assessing impacts of alternative regulations.

The Council suggested that, as a criterion for charter vessel/headboat permits, such vessels must possess the appropriate licenses required by the state from which it operates. All of the Gulf states have license requirements. NMFS concurs with the aim of ensuring compatibility of state and Federal requirements in this regard, but finds this suggestion to be unnecessarily burdensome. To put it into effect, the Regional Director would have to know and apply the licensing requirements of each of the five Gulf states. In lieu of such criterion, the Regional Director will periodically advise the appropriate authorities of each state of charter vessel/headboat permits issued for vessels of that state. Each state may then take appropriate action under its authority.

The Council wishes to advise charter vessel and headboat owners and operators that income requirements may be considered as a criterion for charter vessel/headboat permits in a future amendment to the FMP.

Availability of Amendment 11

Additional background and rationale for the measures discussed above are contained in Amendment 11, the availability of which was announced in the **Federal Register** (60 FR 45392, August 31, 1995).

Classification

Section 304(a)(1)(D) of the Magnuson Act requires NMFS to publish regulations proposed by a Council within 15 days of receipt of an amendment and regulations. At this time, NMFS has not determined that Amendment 11 is consistent with the national standards, other provisions of the Magnuson Act, and other applicable laws, except for those parts of Amendment 11 specifically disapproved, as discussed above. NMFS, in making that determination with respect to the remaining parts of Amendment 11, will take into account the data, views, and comments received during the comment period.

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

The Council prepared an IRFA as part of the RIR, which describes the impacts this proposed rule would have on small entities, if adopted. The impacts are summarized as follows:

All of the commercial and charter vessel/headboat businesses are small entities that would be affected by one or more of the actions in the proposed rule. In terms of revenues and costs:

(1) The restrictions on reef fish transactions between permitted vessels and permitted dealers would marginally decrease revenues and increase costs; (2) the reduction of restrictions on transfer of fish trap endorsements would increase revenues to fish trappers; (3) the charter vessel/headboat permit requirement would increase costs for that sector; and (4) the new permit moratorium would affect the revenues of current commercial operators in a positive manner relative to the status quo.

Under the status quo, the current permit moratorium would cease and a larger number of entrants to the fishery would be expected. This would tend to decrease the revenues of current participants by more than 5 percent, although neither the number of new entrants nor their combined levels of efforts can be estimated. Hence, the new moratorium can be considered to have a positive effect on revenues greater than 5 percent. No entities are expected to be forced to cease operations. A copy of the IRFA is available from the Council (see **ADDRESSES**).

This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act. This requirement has been submitted to OMB for approval. Specifically, applications would be required for charter vessel/headboat permits. The public reporting burden for this collection of information is estimated to average 20 minutes per response. This rule revises the collections of information relating to applications for commercial vessel permits and applications for fish trap endorsements, which are currently approved under OMB Control No. 0648–0205 and have public reporting burdens estimates of 20 minutes per response, each. Their reporting burden estimates are unchanged. This rule repeats the collection of information requirement for dealer permits, which is currently approved under OMB Control No. 0648–0205 and has a public reporting burden estimate of 5 minutes per response. Each of the above reporting burden estimates includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. Send comments regarding any of these reporting burden estimates or any other aspects of the collections of information, including suggestions for reducing the burdens, to NMFS and OMB (see **ADDRESSES**).

List of Subjects in 50 CFR Part 641

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: September 6, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 641 is proposed to be amended as follows:

PART 641—REEF FISH FISHERY OF THE GULF OF MEXICO

1. The authority citation for part 641 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 641.4, paragraphs (o) and (p) are removed; paragraphs (a) and (b), the first sentence of paragraph (f)(1), the first sentence of paragraph (h), paragraphs (m) and (n) are revised to read as follows:

§ 641.4 Permits and fees.

(a) *Applicability*—(1) *Commercial vessel permits.*

(i) As a prerequisite to selling reef fish in or from the EEZ and to be eligible for exemption from the bag limits specified in § 641.24(b) for reef fish in or from the EEZ, an annual commercial vessel permit for reef fish must be issued to the vessel and must be on board. However, see paragraph (m) of this section regarding a moratorium on commercial vessel permits.

(ii) To obtain or renew a commercial vessel permit, the owner or operator of the vessel must have derived more than 50 percent of his or her earned income from commercial fishing, that is, sale of the catch, or from charter or headboat operations during either of the 2 calendar years preceding the application. (See paragraph (m)(3) of this section for a limited exception to this requirement.) For a vessel owned by a corporation or partnership, the earned income requirement must be met by an officer or shareholder of the corporation, a general partner of the partnership, or the vessel operator. A commercial vessel permit issued upon the qualification of

an operator is valid only when that person is the operator of the vessel.

(iii) A qualifying owner or operator of a charter vessel or headboat may obtain a commercial vessel permit. However, a charter vessel or headboat must adhere to the bag limits when operating as a charter vessel or headboat.

(2) *Fish trap endorsements.* To possess or use a fish trap in the EEZ, a commercial vessel permit for reef fish with a fish trap endorsement must be issued to the vessel and must be on board. However, see paragraph (n) of this section regarding a moratorium on fish trap endorsements. In addition, a color code for marking the vessel and trap buoys must be obtained from the Regional Director—see § 641.6.

(3) *Charter vessel/headboat permits.* For a person on board a charter vessel or headboat to fish for or possess a reef fish in or from the EEZ, a charter vessel/headboat permit for reef fish must be issued to the vessel and must be on board.

(4) *Dealer permits.* A dealer who receives from a fishing vessel reef fish harvested from the EEZ must obtain an annual dealer permit. To be eligible for such permit, an applicant must have a valid state wholesaler's license in the state(s) where the dealer operates, if required by such state(s), and must have a physical facility at a fixed location in such state(s).

(b) *Application for a vessel permit.* (1) An application for a commercial vessel permit or a charter vessel/headboat permit must be submitted to the Regional Director and signed by the owner (in the case of a corporation, a qualifying officer or shareholder; in the case of a partnership, a qualifying general partner) or operator of the vessel. After receipt of a complete application, at least 30 days must be allowed for processing the application and issuing a permit. All permits are mailed to owners, whether the applicant is an owner or an operator.

(2) An applicant must provide the following:

(i) A copy of the vessel's valid U.S. Coast Guard certificate of documentation or, if not documented, a copy of its valid state registration certificate.

(ii) The vessel's name and official number.

(iii) The name, address, telephone number, and other identifying information of the owner and of the applicant, if other than the owner.

(iv) Any other information concerning the vessel, gear characteristics, principal fisheries engaged in, or fishing areas requested by the Regional Director.

(v) Any other information that may be necessary for the issuance or administration of the permit.

(3) In addition, an applicant for a commercial vessel permit—

(i) Must provide documentation of earned income that meets the criteria of paragraph (a)(1)(ii) of this section; and

(ii) If fish traps will be used to harvest reef fish, must provide the following information:

(A) The number, dimensions, and estimated cubic volume of the fish traps that will be used; and

(B) The applicant's desired color code for use in identifying his or her vessel and buoys (white is not an acceptable color code).

* * * * *

(f) * * * (1) The Regional Director will issue a permit at any time to an applicant if the application is complete and, in the case of an application for a commercial vessel permit, the applicant meets the earned income requirement specified in paragraph (a)(1)(ii) of this section. * * *

* * * * *

(h) * * * A vessel permit or endorsement or dealer permit issued under this section is not transferable or assignable, except as provided under paragraph (m) of this section for a commercial vessel permit or as provided under paragraph (n) of this section for a fish trap endorsement. * * *

* * * * *

(m) *Moratorium on commercial vessel permits.* This paragraph (m) is effective through December 31, 2000.

(1) Except for an application for renewal of an existing commercial vessel permit or as provided in paragraphs (m)(2) and (m)(3) of this section, no applications for commercial vessel permits will be accepted.

(2) An owner of a permitted vessel may transfer the commercial vessel permit to another vessel owned by the same entity by returning the existing permit with an application for a commercial vessel permit for the replacement vessel.

(3) An owner whose earned income qualified for the commercial vessel permit may transfer that permit to the owner of another vessel or to the new owner when he or she sells the permitted vessel. The owner of a vessel that is to receive the transferred permit must return the existing permit to the Regional Director with an application for a commercial vessel permit for his or her vessel. Such new owner may receive a commercial vessel permit for that vessel, and renew it for the first calendar year after obtaining it, without meeting the earned income requirement of paragraph (a)(1)(ii) of this section. However, to renew the commercial vessel permit for the second calendar year after the transfer, the new owner must meet that earned income requirement not later than the first calendar year after the permit transfer takes place.

(4) A commercial vessel permit that is not renewed or that is revoked will not be reissued. A permit is considered to be not renewed when an application for renewal is not received by the Regional Director within 1 year of the expiration date of the permit.

(n) *Moratorium on fish trap endorsements.* The provisions of this paragraph (n) are effective through February 7, 1997.

(1) A fish trap endorsement will not be issued or renewed unless the current owner of the commercially permitted vessel for which the endorsement is requested has a record of landings of reef fish from fish traps in the EEZ of the Gulf of Mexico during 1991 or 1992, as reported on fishing vessel logbooks received by the Science and Research Director on or before November 19, 1992. An owner will not be issued fish trap endorsements for vessels in numbers exceeding the number of vessels for which the owning entity had the requisite reported landings in 1991 or 1992.

(2) An owner of a vessel with a fish trap endorsement may transfer the endorsement to another vessel owned by the same entity by returning the existing endorsement with an application for an endorsement for the replacement vessel.

(3) A fish trap endorsement is not transferable upon change of ownership of a vessel with a fish trap endorsement, except as follows:

(i) A fish trap endorsement is transferable when the change of ownership of the permitted vessel is from one to another of the following: Husband, wife, son, daughter, brother, sister, mother, or father.

(ii) In the event that a vessel with a fish trap endorsement has a change of ownership that is directly related to the disability or death of the owner, the Regional Director may issue a fish trap endorsement, temporarily or permanently, with the reef fish commercial permit that is issued for the vessel under the new owner. Such new owner will be the person specified by the owner or his/her legal guardian, in the case of a disabled owner, or by the will or executor/administrator of the estate, in the case of a deceased owner. (Change of ownership of a vessel with a commercial reef fish permit upon disability or death of an owner is

considered a purchase of a permitted vessel and paragraph (m)(3) of this section applies regarding a commercial reef fish permit for the vessel under the new owner.)

(4) A fish trap endorsement in effect on September 12, 1995, may be transferred to a vessel with a commercial vessel permit whose owner has a record of landings of reef fish from fish traps in the EEZ, as reported on fishing vessel logbooks received by the Science and Research Director from November 20, 1992, through February 6, 1994, and who was unable to obtain a fish trap endorsement under paragraph (n)(1) of this section. The owner of a vessel that is to receive the transferred endorsement must return the currently endorsed commercial permit and the unendorsed permit to the Regional Director with an application for a fish trap endorsement for his or her vessel. Revised commercial permits will be returned to each owner.

(5) If a fish trap endorsement is transferred under paragraph (n)(3) or (n)(4) of this section, the owner of the vessel to which the endorsement is transferred may renew the endorsement without regard to the requirement of paragraph (n)(1) of this section regarding a record of landing of reef fish from fish traps.

(6) A fish trap endorsement that is not renewed or that is revoked will not be reissued. A fish trap endorsement is considered to be not renewed when an application for renewal is not received by the Regional Director within 1 year of the expiration date of the permit.

§ 641.5 [Amended]

3. In § 641.5, in the first sentence of paragraph (c), the phrase ''reef fish permit'' is removed and the phrase ''commercial reef fish permit'' is added in its place.

4. In § 641.7, paragraphs (a), (y), and (bb) are revised, paragraphs (cc) and (dd) are redesignated as paragraphs (ee) and (ff), respectively, and new paragraphs (cc) and (dd) are added to read as follows:

§ 641.7 Prohibitions.

* * * * *

(a) Falsify information specified in § 641.4(b) or (c) on an application for a permit or endorsement, or information regarding transfer or revision of a permit or endorsement.

* * * * *

(y) Use or possess in the EEZ a fish trap without a valid fish trap endorsement, as specified in § 641.4(a)(2).

* * * * *

(bb) Receive from a fishing vessel, by purchase, trade, or barter, without a dealer permit, reef fish harvested from the EEZ, as specified in § 641.4(a)(4).

(cc) Sell, trade, or barter or attempt to sell, trade, or barter reef fish harvested on board a vessel for which a commercial permit has been issued under § 641.4 to a dealer that does not have a permit issued under § 641.4, as specified in § 641.28(a).

(dd) As a permitted dealer, purchase, trade, or barter or attempt to purchase, trade, or barter reef fish harvested on board a vessel that does not have a commercial permit issued under § 641.4, as specified in § 641.28(b).

* * * * *

5. Sections 641.28 and 641.29 are redesignated as §§ 641.29 and 641.30, respectively, and new § 641.28 is added to read as follows:

§ 641.28 Restrictions on sale/purchase.

(a) A reef fish harvested in the EEZ by a vessel that does not have a valid commercial permit, as required by § 641.4(a)(1), or possessed under the bag limits specified in § 641.24(b), may not be purchased, bartered, traded, or sold, or attempted to be purchased, bartered, traded, or sold.

(b) A reef fish harvested on board a vessel for which a valid commercial permit has been issued under § 641.4 may be sold, traded, or bartered or attempted to be sold, traded, or bartered only to a dealer who has a valid permit issued under § 641.4.

(c) A reef fish harvested in the EEZ may be purchased, traded, or bartered or attempted to be purchased, traded, or bartered by a dealer who has a valid permit issued under § 641.4 only from a vessel for which a valid commercial permit has been issued under § 641.4.

§§ 641.2, 641.23, 641.24, 641.25, and 641.27 [Amended]

6. In addition to the amendments set forth above, in 50 CFR part 641 remove the word ''permit'' and add, in its place, the words ''commercial permit'' in the following places:

(a) Section 641.2 in the definitions of ''Charter vessel'' and ''Headboat'';

(b) Section 641.23(d)(2)(iii);

(c) Section 641.24(a)(1)(ii)(A);

(d) Section 641.25 introductory text; and

(e) Section 641.27(a).

[FR Doc. 95–22551 Filed 9–7–95; 9:35 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 60, No. 176
Tuesday, September 12, 1995

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 95–040N]

FSIS's Top-to-Bottom Review—Notice of Availability of Report

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: The Food Safety and Inspection Service (FSIS) is announcing the availability of a preliminary report entitled ''Top-to-Bottom Review.'' The report, which consists of four volumes, contains analyses and options developed by teams of Agency employees who examined the Agency's future roles, resource allocation and organizational structure. FSIS particularly seeks comments from all interested parties concerning the regulatory roles analyses and options found in Volume II.

DATES: Comments will be accepted through October 31, 1995.

ADDRESS FOR COMMENTS: Comments should be addressed to: Top-to-Bottom Review, Room 350–E, Administration Building, Food Safety and Inspection Service, USDA, Washington, DC 20250.

ORDERS: The report may be obtained by contacting the National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161. Either paper or diskette copies may be purchased from NTIS.

Orders for the diskette, which contains all four volumes of the report, should reference NTIS accession number PB95–505392. Orders for paper copies should reference the accession number for the particular volume or volumes desired. They are as follows: Volume I: Report Digest, PB95–265419; Volume II: FSIS Regulatory Roles, PB95–265427; Volume III: FSIS Structure, PB95–265435; Volume IV: FSIS Resource Allocation and Other Administrative Subjects, PB95–265443.

For telephone orders or further information on placing an order, call NTIS at (703) 487–4650 for regular service or (800) 553–NTIS for rush service. To access the document electronically for ordering and downloading via FedWorld, dial 703–321–3339 with a modem or Telnet fedworld.gov. For technical assistance to access FedWorld, call 703–487–4608.

FOR FURTHER INFORMATION CONTACT: Jeanne Axtell or John McCutcheon, Top-to-Bottom Review Coordinators, Food Safety and Inspection Service, USDA, Room 350–E Administration Building, Washington, DC, 20250; telephone (202) 720–3521 or (202) 720–2709, respectively.

SUPPLEMENTARY INFORMATION: FSIS is announcing the availability of a preliminary report titled ''Top-to-Bottom Review.'' [1] Volume I is a comprehensive digest of the full report. It contains an introduction, summaries of the findings of all 10 review teams, and appendices. Volume II contains the findings of three teams that examined the Agency's regulatory roles of the future. Volume III contains the findings of three teams that examined the Agency's organizational structure. Volume IV contains the findings of the remaining four teams that addressed resource allocation; laboratory resources; supervisory and managerial roles; and employees' knowledge, skills, abilities and training.

The following information provides context for the preliminary report.

Administrator Michael R. Taylor announced early in 1995 that FSIS would look at itself ''from top to bottom'' and define for the future the Agency's regulatory roles, resource allocation, and organizational structure in a manner consistent with the goals and strategies of the proposed Pathogen Reduction/HACCP (Hazard Analysis and Critical Control Point) regulation. The resulting Top-to-Bottom Review is part of the Agency's overall initiative to improve the safety of meat and poultry products and better protect consumers.

The intensive self-examination was prompted also by two other factors. First, the Federal deficit and the resulting pressure to reduce government spending mean that FSIS cannot expect significant increases in its funding in future years. Second, Federal agencies are under a presidential mandate to streamline headquarters and support functions and reduce the number of senior-level positions. It is thus critical to ensure that FSIS is making the best possible use of the resources it has to improve food safety and meet its other consumer protection responsibilities.

The review has involved people from all parts of the Agency. A special effort was made to include as many field representatives as possible when the 10 working teams were formed.

Outreach Program

An extensive outreach program was conducted for FSIS employees and constituents. Internal outreach activities were guided by the conviction that the Agency's employees should be kept fully informed about the review at every stage and that employees' suggestions should be solicited and considered throughout the course of the review.

A three-day employee call-in was held June 12–14. About 250 employees participated. An additional 131 sent in written suggestions, and about 20 more have used the review's electronic mailbox to submit their views. This feedback, which consisted of well over 1000 ideas, comments, and questions, was sorted by subject and provided to the review leaders and teams for consideration.

Constituents received information about the review through a notice in the **Federal Register** June 20 and mentions in the FSIS Update, a weekly newsletter faxed to industry groups, consumer groups, and others who follow the Agency's activities. Briefings for industry and consumer representatives were held June 9, with the Administrator and review leaders presenting status reports and answering questions about the review. Briefings were also held for Congressional staffs.

Intent of the Report

The preliminary report is the result of creative brainstorming by a diverse array of knowledgeable FSIS employees responding to the Administrator's call for bold options. It offers and analyzes a range of possible actions and is meant to serve as a basis for internal and external consideration and comment.

The review leaders were concerned about the length of the report, which

[1] The report is available for review in the office of the FSIS Docket Clerk, Room 4352 South Agriculture Building, Washington, DC 20250.

exceeds 600 pages. They considered consolidating and trimming some of the material, but decided instead to retain all of it and issue the preliminary report in the form of several volumes in order to give FSIS employes and constituents access to the entire body of work produced by each team. Those who do not want to receive and review the entire report can read Volume I, where they will find summaries of the complete versions of the teams' work as presented in Volumes II, III, and IV.

Some topics are addressed more than once. This apparent duplication of effort is intentional. While different teams did examine some of the same issues, they did so independently, applying their own unique perspective and approach. These differing views will provide the Agency's management team with a full range of options to consider.

The teams had just 10 weeks to gather the necessary information and discuss their conclusions. They would have liked more time to write up the results of the work, but the review leaders elected to issue the preliminary report on time as a ''work in progress'' rather than delay it for further development of the underlying analyses or refinement of the written components. The report serves its purpose of providing Agency management with a wide range of options. Further analysis will be conducted, as needed, before decisions are made.

Work of the 10 Review Teams

The 10 teams that conducted the Top-to-Bottom Review are listed below with a brief and general characterization of their work.

FSIS Regulatory Roles (see Volume II of the Report)

1. Farm-to-Table (Outside the Plant)

This team looked at strategies for ensuring that food safety programs are functioning throughout the non-plant levels of the farm-to-table continuum. Possible FSIS roles were considered from the pre-harvest animal production environment to the end point of preparation and consumption. At every point, the team found opportunities to reduce the likelihood of foodborne illness.

2. Inplant Regulatory Roles

This team analyzed three representative types of plants (processing, poultry slaughter, and livestock slaughter) in order to identify the possible FSIS inspectional and regulatory roles in each type of operation, determine how FSIS resources are currently allocated within plants, identify potential gaps in the current inspection program's ability to deliver food safety assurances to the public, and suggest how the gaps might be filled. The team developed a range of options for conducting antemortem and postmortem inspection and HACCP validation and verification.

3. Separation of Industry and USDA Roles

The team was charged with determining strategies and techniques to better define the distinct roles and responsibilities of FSIS and industry in ensuring food safety. It observed that the roles are presently commingled because USDA (FSIS) has assumed many management and consultant functions in the meat and poultry plants it regulates. The team identified 13 techniques for ''decoupling'' FSIS from the industry and ''decoupling'' inspection personnel from plants.

FSIS Structure (See Volume III)

4. Organizational Structure

The team was charged with determining the optimal structure needed for headquarters and the field to carry out the goals and strategies of the proposed Pathogen Reduction/HACCP regulation, taking into account the streamlining goals of the Administration and the reinvention objectives outlined in the National Performance Review. The team developed a model for a new, highly integrated organizational structure for FSIS. It considered several ways of streamlining the supervision and management of the field regulatory programs.

5. Field and Headquarters Support Services

This team was asked to determine what support activities are best performed in the field and at headquarters. It suggested numerous ways of modifying the existing structure so that streamlining goals can be met and some of the resources now used for support services can be shifted to new food safety initiatives such as HACCP. The team's approach included looking at ways to combine the regional and area office functions to eliminate duplication of services and reduce support staffing.

6. Policy and Regulation Development

The purpose of this team was to examine how policy and regulation development activities can be better managed within the Agency.

FSIS Resource Allocation and Other Administrative Subjects (See Volume IV)

7. Optimal Resource Allocation

This team's assignment was to determine the optimal balance between resources allocated to health and safety activities and those allocated to economic adulteration, labeling, and misbranding activities. It looked at how FSIS can allocate resources flexibly, with inspectors' assignments scheduled according to the risk presented by certain plants, products, or processes. Several options were considered for implementing a new resource allocation system.

8. Allocation of Laboratory Resources

The team was charged with determining what level of laboratory activities is necessary for regulatory oversight of industry operations and determining what testing should fall to FSIS and what should be industry's responsibility. Options were developed for using the FSIS laboratories to support HACCP and other Agency programs.

9. Supervision and Management Roles and Responsibilities

This team was asked to determine the nature of future supervisory and managerial responsibilities and examine better methods for delivering technical information. It called for analyzing supervisory and managerial jobs to determine actual knowledge, skills, and abilities (KSA's) required to perform successfully in FSIS and designing programs to provide supervisors and managers with the necessary level of knowledge and skill in HACCP and pathogen reduction topics.

10. Knowledge, Skills, Abilities and Training

This team looked at the KSA's and training that will be necessary to carry out the Agency's future roles along the farm-to-table continuum. It did not, however, address short-term HACCP training for FSIS employees. Another Agency project is addressing the short-term training needs for HACCP-based inspection.

Comments Sought

Through October 31, FSIS welcomes comments on the preliminary report. The Agency is particularly interested in receiving comments on Volume II: FSIS Regulatory Roles. The topics addressed there directly affect how the Agency deals with the public, and they relate to implementation of the proposed Pathogen Reduction/HACCP regulation.

Volumes III and IV address internal administrative matters primarily related to organizational structure and resource allocation. Because of budgetary pressures and the mandate to streamline its structure, FSIS is moving immediately to examine and further evaluate these administrative portions of the preliminary report.

Done at Washington, DC, on September 6, 1995.

Michael R. Taylor,

Acting Under Secretary for Food Safety.

[FR Doc. 95–22633 Filed 9–7–95; 2:53 pm]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service

National Urban and Community Forestry Advisory Council

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The National Urban and Community Forestry Advisory Council will meet in Baltimore, Maryland, October 19–21, 1995, with a tour of local projects scheduled for October 19, 8:00–5:00 p.m. The Council is comprised of 15 members appointed by the Secretary of Agriculture. The purpose of the meeting is to receive status reports from prior challenge cost-share grant recipients and to initiate discussion on the 1995 Annual Report for Congress. The meeting will be chaired by William Kruidenier of the International Society of Arboriculture and Genni Cross of The Trust for Public Land/California ReLeaf, the Chair-elect. The meeting is open to the public and time will be provided at the beginning of each major agenda topic for public input. However, in order to schedule public input, time to speak must be requested by October 12, 1995. Council discussion is limited to Forest Service staff and Council members. Persons who wish to bring urban and community forestry matters to the attention of the Council may file written statements with the Council staff before or after the meeting.

DATES: The meeting will be held October 19–21, 1995.

ADDRESSES: The meeting will be held at the Latham Hotel, 612 Cathedral Street, Baltimore, Maryland.

Send written statements and/or proposed agenda items to Suzanne M. del Villar, Executive Assistant, National Urban and Community Forestry Advisory Council, 1042 Park West Court, Glenwood Springs, CO 81601.

FOR FURTHER INFORMATION CONTACT: Suzanne M. del Villar, Cooperative Forestry Staff, (970) 928–9264.

Dated: September 6, 1995.

Joan M. Comanor,

Deputy Chief, State and Private Forestry.

[FR Doc. 95–22611 Filed 9–11–95; 8:45 am]

BILLING CODE 3410–11–M

Olympic Provincial Interagency Executive Committee (PIEC), Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Olympic PIEC Advisory Committee will meet on October 12, 1995 at the Skokomish Tribal Center, North 80 Tribal Center Road, Shelton, Washington. The meeting will begin at 9:30 a.m. and continue until 3:30 p.m. Agenda items are: (1) 1996 Restoration Priorities; (2) Adaptive Management Planning (share ideas and discuss AMA plan and product concept); (3) Marbled Murrelet Critical Habitat: Process and Procedures; (4) Update on ''318'' and Salvage Sales on the Olympic NF; (5) 1996 Watershed Analysis Status and Follow-up; (6) Open Forum and Agenda Items from Advisory Committee; and (7) Public Comments. All Olympic Province Advisory Committee Meetings are open to the public. Interested citizens are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Kathy Snow, Province Liaison, USDA, Quilcene Ranger District, P.O. Box 280, Quilcene, WA 98376, (360) 765–2211 or Ronald R. Humphrey, Forest Supervisor, at (360) 956–2301.

Dated: September 6, 1995.

Ronald R. Humphrey,

Forest Supervisor.

[FR Doc. 95–22585 Filed 9–11–95; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: 1996 Integrated Coverage Measurement (ICM) Activities.

Form Number(s): CAPI Instrument, DT–1301, DT–1320, DT–1309(L), DT–1314, DT–1315, DT–1340, DT–1377.

Agency Approval Number: None.

Type of Request: New collection.

Burden: 8,541 hours.

Number of Respondents: 18,000.

Avg Hours Per Response: 11 minutes.

Needs and Uses: The Census Bureau requests OMB approval of the various activities and instruments associated with conducting ICM research in two planned tests –– the 1996 ICM Special Test and the 1996 American Indian Reservation Test. The potential ICM activities consist of an independent listing including a quality assuarnce advance listing, a housing unit followup interview including quality assurance and evaluation interviews, a person and group quarters interview including quality assurance and evaluation interviews, an outmover tracing interview including an evaluation interview, and a dual system estimation followup interview including an evaluation interview. Prompted by the need to improve statistical methodology for estimating population coverage during the decennial census, the Bureau of the Census developed the ICM approach. The ICM approach was first tested in the 1995 Census Test. Results of that test are still under analysis. After completing review of the 1995 ICM results, we may determine that some of these operations, quality control measures, or evaluations are not needed.

Affected Public: Individuals or households.

Frequency: One time only.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Maria Gonzalez, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Gerald Taché, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, Room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maria Gonzalez, OMB Desk Officer, Room 10201, New Executive Office Building, Washington, DC 20503.

Dated: September 7, 1995.

Gerald Taché,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 95–22560 Filed 9–11–95; 8:45 am]

BILLING CODE 3510–07–F

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Opportunity to Request Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended, may request, in accordance with section 353.22 or 355.22 of the Department of Commerce (the Department) Regulations (19 CFR 353.22/355.22 (1993)), that the Department conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity to Request a Review

Not later than September 30, 1995, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in September for the following periods:

	Period
Antidumping Duty Proceedings	
Argentina: Silicon Metal (A–357–804)	09/01/94–08/31/95
Canada: Replacement Parts for Self-propelled Bituminous Paving Parts (A–122–057)	09/01/94–08/31/95
Canada: Steel Jacks (A–122–006)	09/01/94–08/31/95
Canada: Steel Rail (A–122–804)	09/01/94–08/31/95
Germany: Certain Forged Steel Crankshafts (A–428–604)	09/01/94–08/31/95
Italy: Pads for Woodwind Instrument Keys (A–475–017)	09/01/94–08/31/95
Japan: Filament Fabric (A–588–607)	09/01/94–08/31/95
Taiwan: Chrome-Plated Lug Nuts: (A–583–810)	09/01/94–08/31/95
The People's Republic of China: Chrome-Plated Lug Nuts (A–570–808)	09/01/94–08/31/95
The People's Republic of China: Greige polyester/Cotton printcloth (A–570–101)	09/01/94–08/31/95
The People's Republic of China: CDIW Fittings & Glands (A–570–820)	09/01/94–08/31/95
United Kingdom: Certain Forged Steel Crankshafts (A–412–602)	09/01/94–08/31/95
Suspension Agreements	
Argentina: Certain Carbon Steel Wire Rod (C–357–004)	01/01/94–12/31/95
Peru: Cotton Shop Towels (C–333–401)	01/01/94–12/31/95
Countervailing Duty Proceedings	
Argentina: Line Pipe (C–357–801)	01/01/94–12/31/94
Argentina: Standard Pipe (C–357–801)	01/01/94–12/31/94
Argentina: Light-Walled Rectangular Tubing (C–357–801)	01/01/94–12/31/94
Argentina: Heavy-Walled Rectangular Tubing (C–357–801)	01/01/94–12/31/94
Canada: New Steel Rail, Except Light Rail (C–122–805)	01/01/94–12/31/94
Israel: Fresh Cut Roses (C–508–064)	01/01/94–12/31/94
New Zealand: Steel Wire (C–614–601)	07/01/94–12/31/94
Thailand: Steel Wire Rope (C–549–806)	01/01/94–12/31/94
Venezuela: Circular Welded Nonalloy Steel Pipe (C–307–806)	01/01/94–12/31/94

In accordance with sections 353.22(a) and 355.22(a) of the regulations, an interested party as defined by section 353.2(k) may request in writing that the Secretary conduct an administrative review. The Department has changed its requirements for requesting reviews for countervailing duty orders. Pursuant to 19 C.F.R. 355.22(a) of the Department's Interim Regulations (60 FR 25137 (May 11, 1995)), an interested party must specify the individual producers or exporters covered by the order for which they are requesting a review. Therefore, for both antidumping and countervailing duty reviews, the interested party must specify for which individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order it is requesting a review, and the requesting party must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin, and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Seven copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B–099, U.S. Department of Commerce, Washington, D.C. 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping Compliance, Attention: Pamela Woods, in room 3065 of the main Commerce Building. Further, in accordance with section 353.31(g) or 355.31(g) of the regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of ''Initiation of Antidumping (Countervailing) Duty Administrative Review,'' for requests received by September 30, 1995. If the Department does not receive, by September 30, 1995, a request for review of entries covered by an order or finding listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute, but is published as a service to the international trading community.

Dated: September 6, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 95–22745 Filed 9–11–95; 8:45 am]

BILLING CODE 3510–DS–M

National Oceanic and Atmospheric Administration

[I.D. 090595B]

North Pacific Fishery Management Council; Team Teleconferences

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of teleconferences.

SUMMARY: The North Pacific Fishery Management Council's (Council) Crab Plan Team and Individual Fishery Quota (IFQ) Implementation Team have each scheduled a teleconference during the month of September.

DATES: IFQ Implementation Team: September 13, 1995, at 9:00 a.m., Alaska Time. Crab Plan Team: September 21, 1995, 1:00 p.m., Alaska Time.

Both conferences will continue until business is completed.

ADDRESSES: Listening sites for the public will be provided in Seattle, WA, and Juneau, Anchorage, and Kodiak, AK, upon request.

Council address: North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510.

FOR FURTHER INFORMATION CONTACT: North Pacific Fishery Management Council, 907–271–2809 (see **ADDRESSES**).

SUPPLEMENTARY INFORMATION: The agenda for the IFQ Industry Implementation Team is as follows:

1. A report from the NMFS Restricted Access Management Division on the current Halibut/Sablefish IFQ program and issues they would like to have addressed, a report from the IFQ Research Planning Group, a report on the current status of amendments in progress, and a report on enforcement of the program.

2. A general discussion by the team on issues to be discussed and recommendations to be forwarded to the Council.

The agenda for the Crab Plan Team is as follows:

Continuation of August 30 teleconference to review and approve the crab Annual Area Management Report (also called the SAFE—Stock Assessment and Fishery Evaluation Report) and other developments with regard to crab management.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Helen Allen, (907) 271–2809.

Dated: September 7, 1995.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–22746 Filed 9–8–95; 2:13 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Department of the Army

Finding of No Significant Impact for the Environmental Assessment for Disposal of the Woodbridge Research Facility, Woodbridge, VA

AGENCY: Department of the Army, DOD.

ACTION: Notice of availability.

SUMMARY: In August 1994, Public Law (PL), 103–307, Provision 128 (Military Construction Appropriations Act, 1995), was signed, mandating the transfer of the Woodbridge Research Facility (WRF) property in its entirety to the Department of the Interior (DOI). Under DOI, the U.S. Fish and Wildlife Service (USFWS) will be the managing agency for the property.

The Environmental Assessment (EA) evaluates the environmental effects associated with the disposal of the WRF property to the USFWS. There would be no significant impacts in connection with either of the alternatives addressed in the EA. The No Action Alternative refers to continuation of existing conditions of Caretaker Status, without implementation of the proposed action. The No Action Alternative is only possible if Congress were to take additional action to repeal or direct a different disposition from that which is currently directed under Pub. L. 103–307.

The Preferred Alternative is the disposal of the 580-acre WRF property, which incorporates the transfer of the property in its entirety to the USFWS. The existing buildings may be used for agency environmental education programs and offices. USFWS states that they will manage the property as a refuge, continue the hunting programs, and promote environmental education programs.

It has been determined that implementation of the proposed action (disposal) would have no significant impact on the quality of the natural or human environment. Transfer to the USFWS would provide for the further enhancement of the natural resources at the WRF property. Accordingly, an Environmental Impact Statement will not be prepared.

DATES: Inquiries will be accepted by no later than October 12, 1995.

ADDRESSES: For further information on the Environmental Assessment or this Finding of No Significant Impact (FNSI), write to Maria dela Torre, U.S. Army Corps of Engineers, Baltimore District, ATTN: CENAB–PL–EM, P.O. Box 1715, Baltimore, Maryland 21203–1715.

FOR FURTHER INFORMATION CONTACT: Maria dela Torre at (410) 962–2911.

Dated: September 6, 1995.

Raymond J. Fatz,

Acting Deputy Assistant Secretary of the Army (Environmental, Safety and Occupational Health) OASA (IL&E).

[FR Doc. 95–22612 Filed 9–11–95; 8:45 am]

BILLING CODE 3710–08–M

Department of the Navy

Board of Visitors to the United States Naval Academy; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Board of Visitors to the United States Naval Academy will meet on 2 October 1995, at Alumni Hall, United States Naval Academy, Annapolis, MD, at 8:30 a.m. The executive session of this meeting from approximately 8:30 a.m. to 10:00 a.m. will be closed to the public. Following executive session the remainder of the meeting will be opened to the public.

The purpose of the meeting is to make such inquiry as the Board shall deem necessary into the state of morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, and academic methods of the Naval Academy. During executive session these inquiries will relate to the internal personnel rules and practices of the Academy, may involve on-going criminal investigations, and include discussions of personal information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Accordingly, the Secretary of the Navy has determined in writing that the executive session portion of the meeting shall be closed to the public because they will be concerned with matters as outlined in section 552(b)(2), (5), (6), and (7) of Title 5, United States Code.

For further information concerning this meeting contact: Lieutenant Commander Adam S. Levitt, U.S. Navy, Secretary to the Board of Visitors, Office of the Superintendent, United States Naval Academy, Annapolis, MD 21402-5000, Telephone Number: (410) 293-1503.

Dated: August 31, 1995

M. A. Waters,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 95-22521 Filed 9-11-95; 8:45 am]

BILLING CODE 3810-FF-F

Notice of Public Hearing for the Draft Environmental Impact Statement/ Environmental Impact Report (DEIS/ EIR) for the Proposed Disposal and Reuse of Mare Island Naval Shipyard, Vallejo, California

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969 as implemented by the Council on Environmental Quality regulations (40 CFR Parts 1500–1508) and the California Environmental Quality Act (CEQA), the Department of the Navy in association with the City of Vallejo, has prepared and filed with the U.S. Environmental Protection Agency a joint Draft Environmental Impact Statement/Environmental Impact Report (DEIS/EIR) for the proposed disposal and reuse of Mare Island Naval Shipyard (MINSY). The Navy is the lead agency for NEPA documentation, and the City of Vallejo is the lead agency for documentation pursuant to CEQA. The DEIS is being prepared to comply with 1993 Base Realignment and Closure (BRAC) directive from Congress to close MINSY.

A Notice of Intent to prepare the EIS/ EIR was published in the **Federal Register** on September 1, 1994 and a public scoping meeting for the EIS/EIR was held on September 22, 1994 in Vallejo, California. A Notice of Availability of the Draft EIS/EIR was published in the **Federal Register** on September 1, 1995.

Pursuant to BRAC, the EIS/EIR assesses the potential environmental impacts associated with the disposal of federal surplus land at MINSY and of potential reuse alternatives. All available properties will be disposed of in accordance with the provisions of the Defense Base Closure and Realignment Act (Public Law 101–510) of 1990 and applicable federal property disposal regulations.

The Mare Island Reuse Plan, developed by the City of Vallejo, constitutes the preferred alternative for the EIS/EIR. Three alternative reuse scenarios are also considered, including a less intensive development of the project, still based in large part on the Mare Island Reuse Plan, a redevelopment plan focusing heavily on open space, and a no-action alternative which would result in the federal government retaining the property in an ''inactive'' status. No decisions on the proposed action will be made until the NEPA process has been completed and the Navy releases a Record of Decision.

The Draft EIS/EIR is available for review at the following public libraries in the vicinity of MINSY: John F. Kennedy Library, 505 Santa Clara Street, Vallejo, California; Springstowne Library, 1003 Oakwood Avenue, Vallejo, California; Vacaville Library, 1020 Ulatis Drive, Vacaville, California; Fairfield-Suisun Library, 150 Kentucky, Fairfield, California; Benicia Library, 150 L Street, Benicia, California; Suisun City Library, 333 Sunset Street, Suisun, California; Dixon Public Library, 135 East B Street, Dixon, California; Napa Library, 1150 Division Street, Napa, California; St. Helena Library, 1492 Library Lane, St. Helena, California; Yountville Library, Yountville, California; and Calistoga Library, 1108 Myrtle Street, Calistoga, California.

DATES: A public hearing to inform the public of the DEIS/EIR findings and to solicit comments will be held on Wednesday, September 27, 1995, beginning at 7:00 p.m. in the City Council Chambers, Vallejo City Hall, located at 555 Santa Clara Street, Vallejo California. Federal, state, and local agencies, and interested individuals are invited and urged to be present or be represented at the hearing. Oral comments will be heard and transcribed by a stenographer; however, to ensure accuracy of the record, all statements should also be submitted in writing. All statements, both oral and written, will become part of the public record for the document. Equal weight will be given to both oral and written statements. In the interest of available time, each speaker will be asked to limit oral comments to five (5) minutes. Longer comments should be summarized at the public meeting or mailed to the address listed at the end of this announcement.

ADDRESSES: All written comments should be submitted no later than October 16, 1995, to Commanding Officer, Engineering Field Activity West, Naval Facilities Engineering Command, 900 Commodore Drive, San Bruno, California 94066–5006 (Attention: Mr. Jerry Hemstock, Code 18522). For additional information, please contact Mr. Jerry Hemstock at telephone (415) 244–3023, fax (415) 244–3737 or Ms. Ann Merideth, Planning Division, City of Vallejo, 555 Santa Clara Street, Vallejo, CA 94590–5934, telephone (707) 648–4326, fax (707) 552–0163.

Dated: September 8, 1995.

M.D. Schetzsle,

LT, JAGC, USN, Alternate Federal Register Liaison Officer.

[FR Doc. 95–22792 Filed 9–11–95; 8:45 am]

BILLING CODE 3810–FF–M

Notice of Intent To Prepare a Joint Environmental Impact Statement (EIS)/ Environmental Impact Report (EIR) for the Disposal and Potential Reuse of the Naval Medical Center, Oakland, California

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969 as implemented by the Council on Environmental Quality regulations (40 CFR Parts 1500–1508) and the California Environmental Quality Act (CEQA), the Department of the Navy in coordination with the City of Oakland is preparing a joint Environmental Impact Statement (EIS)/ Environmental Impact Report (EIR) for the disposal and potential reuse of the Naval Medical Center Oakland (NMCO) property and structures located in Oakland, California. The Navy shall be the EIS lead agency and the City of Oakland shall be the EIR lead agency. The Defense Base Closure and Realignment Act (Public Law 101–510) of 1990, as implemented by the 1993 base closure process, directed the U.S. Navy to close NMCO. NMCO is scheduled for closure in September of 1996.

NMCO is within the jurisdiction of the City of Oakland in Alameda County, and is located approximately nine miles southeast of the Oakland central business district, and 17 miles east of the City of San Francisco. The medical center site is approximately 192 acres developed with approximately 89 structures including the hospital, 5 modern buildings, 20 older buildings, 24 miscellaneous structures, and 38 military family housing units.

The EIS/EIR will address the disposal of the property and the potential impacts to the environment that may result from reuse development based upon implementation of the Oak Knoll Reuse Plan (currently under preparation by the City of Oakland) and a ''no action'' alternative. The Oak Knoll Reuse Plan—Preliminary Alternatives, dated August 1995, prepared by the City of Oakland Base Reuse Authority in conjunction with the residents of the City of Oakland will serve as the basis

for reuse alternatives. The ''no action'' alternative would have NMCO remain federal government property in a caretaker status.

The Oak Knoll Reuse Plan—Preliminary Alternatives listed the following preliminary alternatives: Senior/Community, Mixed Use Village, Single Use Campus, and Residential. These alternatives comprise land uses (neighborhood retail area, community facilities area, educational/training and institutional area, active recreational area, open space area, and residential area) combined in different acreage configurations. A neighborhood retail area (including supermarket, convenience shops, restaurants, laundry, beauty shop, copy service, travel agency, and bank uses) could range up to 5 acres. A community facilities area (including senior residential, homeless housing, elder hostel, health and social services facility, post office, small professional offices, and daycare facilities) could range up to 33 acres. An educational/training and institutional use area (including professional research development and biotech facilities, offices, administration, storage, conference and assembly halls, and health clinic) could range up to 35 acres. An active recreation area (including swimming pool, bowling alley, gymnasium, tennis courts, baseball fields, playfields and picnic area) could range between 8–14 acres. An open space area (recreation trails, creek restoration, conserved woodlands, wildlife habitat, and parkland) could range between 55–110 acres. A residential area (including variable mixes of market rate housing, single-family housing units, and/or medium density townhouses, live/work spaces, and senior/homeless housing) could range up to 82 acres.

DATES: Federal, state, and local agencies, and interested individuals are encouraged to participate in the scoping process for the EIS/EIR to determine the range of issues and alternatives to be addressed. A public scoping meeting to receive oral and written comments will be held at 7:00 p.m. on Wednesday, September 27, 1995, at the NMCO Club Knoll Caduceus Room, 8750 Mountain Boulevard, Oakland, California. In the interest of available time, each speaker will be asked to limit oral comments to five (5) minutes. Longer comments should be summarized at the public meeting or mailed to the address listed at the end of this announcement.

ADDRESSES: All written comments should be submitted within 30 days of the published date of this notice to Mr. Gary J. Munekawa (Code 185), Engineering Field Activity West, Naval Facilities Engineering Command, 900 Commodore Drive, San Bruno, California 94066–5006, telephone (415) 244–3022, fax (415) 244–3737. For information concerning the EIR, please contact the City of Oakland, Office of Planning and Building, Environmental Review Section, Ms. Anu Raud at telephone (510) 238–6346, or Mr. Nixon Lam at telephone (510) 238–2229, or fax (510) 238–3586. For further information regarding the Oak Knoll Reuse Plan—Preliminary Alternatives, dated August 1995, please contact the City of Oakland, Oakland Base Reuse Authority, Mr. Paul Nahm, or Mr. Barry Cromartie at telephone (510) 238–7256, or fax (510) 238–3691.

Dated: September 8, 1995.

M.D. Schetzsle,

LT, JAGC, USNR, Alternate Federal Register Liaison Officer.

[FR Doc. 95–22793 Filed 9–11–95; 8:45 am]

BILLING CODE 3810–FF–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before November 13, 1995.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronic mailed to the internet address #FIRB@ed.gov, or should be faxed to 202–708–9346.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Department of Education (ED) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Group, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department, (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate, (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: September 7, 1995.

Gloria Parker,

Director, Information Resources Group.

Office of Postsecondary Education

Type of Review: Revision.
Title: Reform and Relief Regulations
Frequency: One Time.
Affected Public: Individuals or households; Business or other for profit; Not for Profit institutions.
Reporting Burden:
Responses: 12,803,255.
Burden Hours: 30,010,875.
Recordkeeping Burden:
Recordkeepers: 0.
Burden Hours: 0.
Abstract: To revise § 682.201 to provide for the eligibility of step parents under the Federal PLUS Program, to eliminate §§ 682.600 and 682.602,

which can better be presented in program manuals and handbooks, and to add a new § 682.611.

Office of Postsecondary Education

Type of Review: Revision.
Title: Federal Perkins Loan, Federal Work-Study, Federal Supplemental Educational Opportunity Grant Programs (Recordkeeping/Disclosure)—Reform and Relief Regulation
Frequency: One Time.
Affected Public: Individuals or households; Business or other for profit; Not for Profit institutions.
Reporting Burden:
Responses: 17,078.
Burden Hours: 12,559.
Recordkeeping Burden:
Recordkeepers: 0.
Burden Hours: 0.
Abstract: Revising sections 674.2, 674.16, 674.17(a), 674.31, 675.2, 675.17, Appendix B to Part 675, 676.2, and 676.17 for purposes of clarification, elimination of duplication regulations, and to provide more institutional flexibility; not reporting any actual changes in burden hours. Respondents are the institutions and students.

Office of Postsecondary Education

Type of Review: Revision.
Title: Regulations for Perkins Loan Program—Subpart C—Due Diligence—Reform and Relief Regulation
Frequency: One Time.
Affected Public: Individuals or households; Business or other for profit; Not for Profit institutions.
Reporting Burden:
Responses: 2,796,530.
Burden Hours: 80,431.
Recordkeeping Burden:
Recordkeepers: 0.
Burden Hours: 0.
Abstract: Section 574.47(g) is being revised for purposes of clarification and to provide more institutional flexibility. The Department will use the information to ensure that the institution has followed the prescribed regulatory procedures in administering these programs and to justify the payment of funds by the federal government.

Office of Postsecondary Education

Type of Review: Revision.
Title: Reform and Relief Regulations—Federal Pell Grant Program
Frequency: Annually.
Affected Public: Individuals or households; Business or other for profit; Not for Profit institutions.
Reporting Burden:
Responses: 400.
Burden Hours: 16,400.
Recordkeeping Burden:
Recordkeepers: 0.
Burden Hours: 0.
Abstract: This submission is proposing the elimination of redundancy and inconsistencies within the regulations. The program participation agreement requirements for the Federal Pell Grant Program (§§ 690.7 and 690.71–690.73) and the procedures for providing funds (§ 690.74) are already provided for in the Student Assistance General Provisions regulations. The changes to § 690.83 (c) and (e) are just to eliminate inconsistent standards.

[FR Doc. 95–22597 Filed 9–11–95; 8:45 am]
BILLING CODE 4000–01–P

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before November 13, 1995.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronic mailed to the internet address #FIRB@ed.gov, or should be faxed to 202–708–9346.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Department of Education (ED) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Group, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department, (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate, (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: September 7, 1995.

Gloria Parker,

Director, Information Resources Group.

Office of Postsecondary Education

Type of Review: Regular.
Title: Student Assistance General Provisions—Subpart K—regulatory relief and reform package.
Frequency: Annually.
Affected Public: Business or other for profit; Not for Profit institutions.
Reporting Burden:
Responses: 3,634.
Burden Hours: 4,477.
Recordkeeping Burden:
Recordkeepers: 0.
Burden Hours: 0.
Abstract: These regulations are part of a Division-wide regulatory relief package and affect provision of Student Assistance General Provisions regulations regarding cash management.

Office of Postsecondary Education

Type of Review: Regular.
Title: Performance Report for the School, College, and University Partnerships (SCUP) Program.

Frequency: Annually.
Affected Public: Not for Profit institutions; State, Local or Tribal Government.
Reporting Burden:
Responses: 1.
Burden Hours: 240.
Recordkeeping Burden:
Recordkeepers: 0.
Burden Hours: 0.
Abstract: SCUP grantees must submit the report annually so the Department can evaluate the performance of grantees prior to awarding continuation grants. The Department will also aggregate data on project outcomes related to student and school performance impact, and identify exemplary projects.

[FR Doc. 95–22596 Filed 9–11–95; 8:45 am]
BILLING CODE 4000–01–P

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before October 12, 1995.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Wendy Taylor, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3507 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Group publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: September 7, 1995.

Gloria Parker,

Director, Information Resources Group.

Office of Postsecondary Education

Type of Review: Regular.
Title: Student Aid Report.
Frequency: Annually.
Affected Public: Individuals or households.
Reporting Burden:
Responses: 15,237,969.
Burden Hours: 4,095,759.
Recordkeeping Burden:
Recordkeepers: 0.
Burden Hours: 0.
Abstract: ''Federal Grants, Student Aid programs'': The Student Aid Report (SAR) is used to notify applicants of their eligibility to receive Federal Financial Aid. The form is submitted by the applicant to the institution of their choice.

[FR Doc. 95–22595 Filed 9–11–95; 8:45 am]
BILLING CODE 4000–01–P

Coordinated Services Projects

AGENCY: Department of Education.

ACTION: Notice of application availability and waiver of reporting requirement for coordinated services projects.

SUMMARY: The U.S. Secretary of Education (Secretary) announces the availability of applications to use Elementary and Secondary Education Act (ESEA) funds for coordinated services projects under section 14206(b) and Title XI of the ESEA. In addition, the Secretary announces the waiver of an annual reporting requirement that otherwise would apply to these projects.

SUPPLEMENTARY INFORMATION: Title XI of the ESEA offers local educational agencies (LEAs), schools, and groups of schools, the opportunity to use up to five percent of their ESEA funds in any fiscal year for a coordinated services project. Coordinated services projects link public and private agencies with schools to improve the access of elementary and secondary students and their families to health and social services through a coordination site at or near a school.

Coordinated services projects provide a mechanism for helping children and their families address factors outside the classroom such as inadequate or substandard nutrition, health care, and living conditions that can adversely affect the ability of a child to learn. Funds may be used to develop, implement, or expand a coordinated services project. Funds may not be used for the direct provision of any health or health-related service.

DEFINITION: The term ''coordinated services project'' is defined by the statute as ''a comprehensive approach to meeting the educational, health, social service, and other needs of children and their families, including foster children and their foster families, through a community-wide partnership that links public and private agencies providing such services or access to such services through a coordination site at or near a school.

ELIGIBLE APPLICANTS: Applications for a coordinated services project may be submitted to the Secretary by an LEA, or if there is no governing LEA, by an individual school or group of schools.

WAIVER OF REPORTING REQUIREMENT: Under the Education Department General Administrative Regulations (EDGAR), an applicant generally must submit an annual performance report to the Department. (See 34 CFR §§ 74.51, 75.720, and 80.40.) However, in the interest of reducing burden at the local level, the Secretary has determined that a performance report is unnecessary for the first year and third year of the implementation or expansion of a coordinated services project, and therefore waives that requirement for the first and third years. This waiver is in accordance with the Secretary's authority under these regulations.

FOR APPLICATIONS OR INFORMATION CONTACT: Jeanne Jehl, Office of Elementary and Secondary Education, U.S. Department of Education, 600 Independence Avenue, SW (Portals Building–Room 604), Washington, D.C.

20202–6123. Telephone: (202) 260–1854. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including the use of ESEA funds for coordinated services projects, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcement, Bulletin and Press Releases). However, the official notice of application availability is the notice published in the **Federal Register**.

(**Authority:** 20 U.S.C. 8401–8407 and 8826(b))

Dated: August 21, 1995.

Thomas W. Payzant,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 95–22550 Filed 9–11–95; 8:45 am]

BILLING CODE 4000–01–P

Office of Postsecondary Education; Federal Work-Study Programs

AGENCY: Department of Education.

ACTION: Notice of the closing date for institutions to submit a request for a waiver of the requirement that an institution shall use at least 5 percent of the total amount of its Federal Work-Study (FWS) Federal funds granted for the 1995–96 award year to compensate students employed in community service jobs.

SUMMARY: The Secretary gives notice to institutions of higher education of the deadline for an institution to submit a written request for a waiver of the statutory requirement that an institution shall use at least 5 percent of its total FWS Federal funds granted for the 1995–96 award year (July 1, 1995 through June 30, 1996) to compensate students employed in community service jobs.

DATES: *Closing Date for submitting a Waiver Request and any Supporting Information or Documents.* An institution that would like to request a waiver of the requirement that an institution use at least 5 percent of the total amount of its FWS Federal funds granted for the 1995–96 award year to compensate students employed in community service jobs, must mail or hand-deliver its waiver request and any supporting information or documents on or before October 20, 1995. The Department will not accept a waiver request submitted by facsimile transmission. The waiver request must be submitted to the Institutional Financial Management Division at one of the addresses indicated below.

ADDRESSES: *Waiver Request and any Supporting Information or Documents Delivered by Mail.* The waiver request and any supporting information or documents delivered by mail must be addressed to Ms. Carolyn Short, Fiscal Program Specialist, Campus-Based Financial Operations Branch, Institutional Financial Management Division, Accounting and Financial Management Service, Student Financial Assistance Programs, U.S. Department of Education, 600 Independence Avenue SW., (Room 4714, ROB–3), Washington, D.C. 20202–5458.

An applicant must show proof of mailing its waiver request by October 20, 1995. Proof of mailing consist of one of the following: (1) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service, (2) a legibly dated U.S. Postal Service postmark, (3) a dated shipping label, invoice, or receipt from a commercial carrier, or (4) any other proof of mailing acceptable to the U.S. Secretary of Education.

If a waiver request is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service. An institution should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an institution should check with its local post office. An institution is encouraged to use certified or at least first-class mail. Institutions that submit waiver requests and any supporting information or documents after the closing date will not be considered for a waiver.

Waiver Requests and any Supporting Information or Documents Delivered by Hand. A waiver request and any supporting information or documents delivered by hand must be taken to Ms. Carolyn Short, Fiscal Program Specialist, Campus-Based Financial Operations Branch, Institutional Financial Management Division, Accounting and Financial Management Service, Student Financial Assistance Programs, U.S. Department of Education, Room 4714, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

Hand-delivered waiver requests will be accepted between 8:00 a.m. and 4:30 p.m. daily (Eastern time), except Saturdays, Sundays, and Federal holidays. A waiver request for the 1995–96 award year that is hand-delivered will not be accepted after 4:30 p.m. on October 20, 1995.

SUPPLEMENTARY INFORMATION: Under section 443 (b)(2)(A) of the Higher Education Act of 1965, as amended (HEA), an institution must use at least 5 percent of the total amount of its FWS Federal funds granted for an award year to compensate students employed in community service, except that the Secretary may waive this requirement if the Secretary determines that enforcing it would cause hardship for students at the institution. The institution must provide a written waiver request and any supporting information or documents by the established October 20, 1995 closing date.

The waiver request must be signed by an appropriate institutional official and above the signature the official must include the statement: ''I certify that the information the institution provided in this waiver request is true and accurate to the best of my knowledge. I understand that the information is subject to audit and program review by representatives of the Secretary of Education.'' If the institution submits a waiver request and any supporting information or documents after October 20, 1995, the request will not be considered.

To receive a waiver, an institution must demonstrate that complying with the 5 percent requirement would cause hardship for students at the institution. To allow flexibility to consider factors that may be valid reasons for a waiver, the Secretary is not specifying specific circumstances that would support granting a waiver. However, the Secretary does not foresee many instances in which a waiver will be granted. The fact that it may be difficult for the institution to comply with this provision of the HEA is not a basis for granting a waiver.

Applicable Regulations

The following regulations apply to the Federal Work-Study program:

(1) Student Assistance General Provisions, 34 CFR Part 668.

(2) Federal Work-Study Programs, 34 CFR Part 675.

(3) Institutional Eligibility Under the Higher Education Act of 1965, as amended, 34 CFR Part 600.

(4) New Restrictions on Lobbying, 34 CFR Part 82.

(5) Government Debarment and Suspension (Nonprocurement) and Government Requirements for Drug-Free Workplace (Grants), 34 CFR Part 85.

(6) Drug-Free Schools and Campuses, 34 CFR Part 86.

FOR FURTHER INFORMATION CONTACT: To receive information, contact Ms.

Carolyn Short, Fiscal Program Specialist, Campus-Based Financial Operations Branch, Institutional Financial Management Division, Accounting and Financial Management Service, Student Financial Assistance Programs, U.S. Department of Education, 600 Independence Avenue, S.W., (Room 4714, ROB–3), Washington, D.C. 20202–5458. Telephone (202) 708–9756. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

(Authority: 42 U.S.C. 2756(b)).

Dated: September 5, 1995.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

(Catalog of Federal Domestic Assistance Number: 84.033 Federal Work-Study Program)

[FR Doc. 95–22549 Filed 9–11–95; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

International Energy Agency Meeting

AGENCY: Department of Energy.

ACTION: Notice of meeting.

SUMMARY: The Industry Advisory Board (IAB) to the International Energy Agency (IEA) will meet September 19, 1995, at the offices of the Organization for Economic Cooperation and Development (OECD) in Paris, France, to permit attendance by representatives of U.S. company members of the IAB at a meeting of the IEA's Standing Group on Emergency Questions on the same date at the OECD offices.

FOR FURTHER INFORMATION CONTACT: Samuel M. Bradley, Acting Assistant General Counsel for International and Legal Policy, Department of Energy, 1000 Independence Avenue SW., Washington, D.C. 20585, 202–586–6738.

SUPPLEMENTARY INFORMATION: In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(i)), the following meeting notice is provided:

A meeting of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on September 19, 1995, at the headquarters of the Organization for Economic Cooperation and Development (OECD), 2, rue Andre-Pascal, Paris, France, beginning at 9:30 a.m. The purpose of this meeting is to permit attendance by representatives of U.S. company members of the IAB at a meeting of the IEA's Standing Group on Emergency Questions (SEQ) which is scheduled to be held at the OECD on September 19, including a preparatory session for company representatives from 9:00 a.m. to 9:30 a.m. The agenda for the preparatory session for company representatives is to elicit views regarding items on the agenda for the SEQ meeting. The agenda for the meeting of the SEQ is under the control of the SEQ.

It is expected that the SEQ will adopt the following agenda:

1. Adoption of the Agenda
2. Approval of Summary Record of the 84th Meeting
3. SEQ Work Program
   —Proposals for 1996 Work Program
4. Conferences and Seminars
   —''Coordinated Emergency Response Measures'' conference/test preparations
   —Conference on long term security issues—June 1996
   —Seminar for stockholding agencies—late 1996
5. Proposals on IEA Emergency Response
   —Follow-up by the SEQ to Governing Board decision of February 22, 1995 on IEA emergency response
6. Emergency Reserve Situation of IEA Countries
   —Emergency reserve and net import situation of IEA countries as of April 1, 1995
   —Report required by the Governing Board on emergency reserve situation of IEA countries, notably those not meeting IEA commitments
   —Emergency reserve and net import situation of IEA countries as of July 1, 1995
   —Availability of U.S. Strategic Petroleum Reserve storage capacity
7. Industry Advisory Board (IAB)
   —Current and planned IAB activities
   —Industry Supply Advisory Group training course
8. Emergency Response Reviews
   —Updated schedule of reviews
9. Emergency Response Issues in IEA Candidate Countries
   —Emergency response situation in Korea
   —Emergency reserve and net import situation of IEA candidate countries
10. Oil Market Situation
11. Emergency Management Manual
   —French translation
   —Emergency Reference Guide
12. Emergency Data System and Related Questions
   —Preparation for October/November 1995 test submission of Questionnaires A and B
   —Monthly Oil Statistics (MOS) for March 1995
   —MOS for April 1995
   —MOS for May 1995
   —MOS for June 1995
   —Base Period Final Consumption (BPFC) Q294—Q195
   —BPFC Q394—Q295
   —Quarterly Oil Forecast—Q395/Q296 and current trigger situation
13. Seasonality in IEA Oil Supply and Demand
14. Emergency Response Issues Related to Oil Product and Refining Issues
   —SEQ/Standing Group on Oil Market study of product specifications and related issues
15. Policy and Legislative Developments in Member Countries
   —Energy Policy and Conservation Act
   —Update of emergency response legislation in Spain
   —Other country developments
16. Other Business
   —Participation in SEQ activities by candidate countries
   —Tentative calendar of SEQ activities until end 1995
   —Questionnaire A/Questionnaire B test submission scheduled for October 19–20 and November 20–21, 1995
   —SEQ meeting scheduled for December 13, 1995
   —IEA conference on long-term security issues scheduled for June 1996
   —Seminar for IEA stockholding agencies, November 1995

As permitted by 10 CFR Section 209.32, the usual 7-day period for publication of this meeting notice in the **Federal Register** has been shortened because unanticipated circumstances pertaining to the scheduling of the meeting delayed the issuance of this notice.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(ii)), this meeting is open only to representatives of members of the IAB and their counsel, representatives of members of the SEQ, representatives of the Departments of Energy, Justice, and State, the Federal Trade Commission, the General Accounting Office, Committees of the Congress, the IEA, and the European Commission, and invitees of the IAB, the SEQ or the IEA.

Issued in Washington, DC, September 7, 1995.

Robert R. Nordhaus,

General Counsel.

[FR Doc. 95–22628 Filed 9–11–95; 8:45 am]

BILLING CODE 6450–01–P

Intent To Award a Grant to the Underground Injection Practices Research Foundation

AGENCY: U.S. Department of Energy, Metairie Site Office.

ACTION: Notice of non-competitive financial assistance (grant).

SUMMARY: The Department of Energy (DOE), Metairie Site Office announces that it intends to make a Non-Competitive Financial Assistance Award (Grant) through the Pittsburgh Energy Technology Center to the Underground Injection Practices Research Foundation (UIPRF) of the Ground Water Protection Council (UIPRF). The action is necessary to continue work related to Class II injection well operations in various states throughout the country. The effort will continue implementation of a Risk-Based Data Management System (RBDMS), conduct Class II injection well Area of Review (AOR) workshops, and conduct a RBDMS workshop.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Pittsburgh Energy Technology Center, Acquisition and Assistance Division, P.O. Box 10940, MS 921–143, Pittsburgh, PA 15236, Attn.: Eric T. Bell, Telephone: (412) 892–5802

SUPPLEMENTARY INFORMATION: The UIPRF has proposed a three-task project relating to Class II injection well operations in various states throughout the country. Task I of the proposed project is designed to continue implementation of a Risk-Based Data Management System (RBDMS). Task 2 of this project is designed to develop and conduct workshops using the guideline document developed by an UIPRF committee. These workshops will be held in various locations to further assist the regulator and industry in establishing Area of Review (AOR) variance programs across the country. Task 3 of this project involves one workshop on the RBDMS.

The Underground Injection Practices Council (UIPC) was formed in 1985 to work with various federal agencies, state underground injection control (UIC) officials, municipal and county officials, representatives of environmental groups, industry, scientists, and others on safe and effective methods for waste disposal. The UIPC, through its Research Foundation, conducts a comprehensive program of original research and data collection and serves as a clearinghouse for information on underground injection. The UIPC also conducts a variety of educational programs and serves as a forum for the development of more sound regulations and technical standards.

Greater emphasis is currently being placed on the ability of states to justify their regulatory decisions, with interest in developing reliable procedures for assessing the risks posed by oil and gas injection wells increasing rapidly. Under the Safe Drinking Water Act, agencies that implement UIC programs are required to prevent subsurface injection that endangers an underground source of drinking water (USDW).

In 1993 the UIPRF completed a grant from DOE that involved the investigation of state environmental, oil, and gas data, and data management systems that pertain to underground injection control. The primary goal of this research was to increase the base of technical and environmental knowledge related to the application of the UIPRF model that has been developed to assess the risk of injection water contaminating a USDW. The project involved four major tasks: (1) conducting an inventory and needs assessment of the database management systems of the 21 states that have primacy to supplement the UIC requirements for Class II wells, (2) conducting investigations of six state's data management system capabilities and making hardware and software improvements, (3) conducting a Technical Symposium on Class II injection wells relating to the application of the UIPRF model that was developed to assess risk of injection water contaminating USDWs, and (4) conducting investigations of four states' data management system capabilities and making hardware and software improvements.

In 1994 the UIPRF initiated a two-task DOE-funded project. Task 1 of the project was designed to extend the implementation of a Risk-Based Data Management System (RBDMS) in four states. Alaska, Mississippi, Montana, and Nevada were given assistance with converting data from existing data management systems; coding and internal testing of the RBDMS; preparing documentation, training, and technology transfer; and project management. Task 2 of the project offered assistance in conducting four regional workshops related to Area of Review (AOR) investigations and environmental compliance.

In accordance with 10 CFR 600.7(b)(2)(i) criteria (A) and (D), a noncompetitive Financial Assistance Award to the UIPRF is justified. This effort is a continuation of the two previous mentioned grants. Competing this action would have a significant adverse effect on continuity of the on-going program. The Applicant has exclusive domestic capability to perform this activity successfully, based upon the unique technical expertise of the UIPRF which will ensure maximum utilization of existing state, federal, industry, and commercial sources of data necessary to complete the study. This effort therefore is considered suitable for noncompetitive financial assistance. A competitive solicitation would be inappropriate.

DOE funding for this research is estimated to be $1,070,000 for the 24 month duration of the project. These funds will be used to pay for the cost of research staff, administrative support personnel, consultants, experts, and printing costs as necessary for the research project.

Issued in Pittsburgh, PA, on August 31, 1995.

Richard D. Rogus,

Contracting Officer.

[FR Doc. 95–22627 Filed 9–11–95; 8:45 am]

BILLING CODE 6450–01–P

Energy Information Administration

Proposed Revision and Extension of Coal Data Collections

AGENCY: Energy Information Administration, Department of Energy.

ACTION: Notice of the proposed revision and extension of coal data collections and solicitation of comments.

SUMMARY: The Energy Information Administration (EIA) is soliciting comments concerning the proposed revision and extension of the coal data collections included in the Coal Program Package. The following surveys are covered by this action: Form EIA–1, ''Weekly Coal Monitoring Report—General Industries and Blast Furnaces,'' (Standby), Form EIA–3, ''Quarterly Coal Consumption Report—Manufacturing Plants,'' Form EIA–3A, ''Annual Coal Quality Report—Manufacturing Plants,'' Form EIA–4, ''Weekly Coal Monitoring Report—Coke Plants,'' (Standby), Form EIA–5, ''Coke Plant Report—Quarterly,'' Form EIA–5A, ''Annual Coal Quality Report—Coke Plants,'' Form EIA–6, ''Coal Distribution Report,'' Form EIA–7A, ''Coal Production Report,'' and Form EIA–20, ''Weekly Telephone Survey of Coal Burning Utilities,'' (Standby).

DATES: Written comments must be submitted on or before November 13, 1995. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should

advise the contact listed below of your intention to do so as soon as possible.

ADDRESSES: Send comments to Thomas Murphy, Coal Data Systems Branch, EI-521, Forrestal Building, U.S. Department of Energy, Washington, D.C. 20585. Alternatively, Mr. Murphy can be reached at TMURPHY@EIA.DOE.GOV (Internet e-mail), 202–254–5561 (voice), or 202–254–6233 (facsimile).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the forms and instructions should be directed to Thomas Murphy at the address listed above.

SUPPLEMENTARY INFORMATION:

I. Background
II. Current Actions
III. Request for Comments

I. Background

In order to fulfill its responsibilities under the Federal Energy Administration Act of 1974 (Pub. L. No. 93–275) and the Department of Energy Organization Act (Pub. L. No. 95–91), the Energy Information Administration is obliged to carry out a central, comprehensive, and unified energy data and information program. As part of this program, EIA collects, evaluates, assembles, analyzes, and disseminates data and information related to energy resource reserves, production, demand, and technology, and related economic and statistical information relevant to the adequacy of energy resources to meet demands in the near and longer term future for the Nation's economic and social needs.

The Energy Information Administration, as part of its continuing effort to reduce paperwork and respondent burden (required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13)), conducts a presurvey consultation program to provide the general public and other Federal agencies with an opportunity to comment on proposed and/or continuing reporting forms. This program helps to ensure that requested data can be provided in the desired format, reporting burden is minimized, reporting forms are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

The coal surveys included in the Coal Program Package collect information on coal production, distribution, receipts, consumption, quality, stocks, and prices. Data are used to support public policy analyses of the coal industry and are published in various EIA publications. Respondents to the surveys include coal producers, coal distributors, and coal consumers.

The EIA is attempting to employ electronic data collection methods in order to better serve those customers that have or intend to have FAX, Internet, and other electronic reporting capabilities for use in submitting their data to the EIA. If you are a coal survey respondent, please respond to questions E and I at the end of this notice so that we can better serve you in the future.

II. Current Actions

Based upon an internal review of coal program data requirements and consultations with the coal industry and data users we propose to implement one of the following two options with respect to the surveys in the Coal Program Package. Our objective in proposing these options is to modify the EIA coal data program by reducing respondent reporting burden and survey operating costs, without degrading the accuracy and coverage of the EIA's coal data.

Option 1

EIA–6

This option proposes to reduce the frequency of the current survey from quarterly to annual. Quarterly estimates of State-level coal consumption in the ''Other Industrial'' and ''Residential and Commercial Sectors'' would be made by EIA.

This option would also fill the resulting data gap of quarterly production and producer stocks by using Mine Safety and Health Administration (MSHA) quarterly coal production and producer stock data so that no quarterly coal production or stock data would be collected by EIA. The use of MSHA quarterly data has been discussed with MSHA. MSHA plans to collect producer stock data for EIA on their quarterly survey Form 7000–2, ''Quarterly Mine, Employment and Coal Production Report.'' Quarterly distributor stock data would be estimated at the State-level by EIA.

EIA–3

This option would delete the requirement for disaggregation by coal rank (anthracite, bituminous, subbituminous, and lignite) and replace it with a check-off box to indicate the predominant rank of coal receipts.

In Part III of this survey, we propose to delete the question relating to the share of electricity sold to electric utilities and rely on the EIA–867 for this information.

EIA–5

This option would delete the requirement for disaggregation of all coal data by coal rank. Additionally, a column would be added to Part III of the current form to clarify reporting for intra-company transfers of coke.

EIA–3A/EIA–5A

We propose to reduce the frequency of these surveys from annual to triennial.

EIA–7A

Since the reporting requirements for this survey can vary significantly, depending upon the type of respondent (mine only, preparation plant only, and mine collocated with a preparation plant), we propose to have a common identification page and split the remainder of this survey into three separate schedules, each of which will be tailored to suit the type of respondent.

In addition, we propose to eliminate the collection of certain identification information and employment data, relying instead on MSHA data on Form 7000–2.

EIA–1/EIA–4/EIA–20

We propose to request that these forms be re-cleared without changes.

Option 1 Burden Impact

The annual respondent burden for the current coal forms is 19,380 hours. The EIA estimates that Option 1 would reduce the annual respondent burden to 8,437 hours, a decrease of 10,943 hours (56 percent).

Option 2

EIA–6

This option would eliminate the EIA–6 survey entirely. To partially fill the resulting data gap for distribution to consumer sectors by origin and destination State, we propose to add origin State for receipts on the quarterly EIA–3 survey (manufacturing plants) and the quarterly EIA–5 survey (coke plants). The FERC Form 423 currently collects coal receipts data by origin for electric utility plants having a capacity of 50MW or more. Thus the origin and destination of coal going to most of the consuming sectors would be maintained. All methods of transportation data would be eliminated. Some of these data are available from outside sources, such as Resource Data International, Association of American Railroads, and the U.S. Corps of Engineers.

This option also eliminates State-level data covering coal distribution to the agriculture, mining and construction sectors (currently 0.2 percent of total annual domestic distribution) and distribution data for the ''Residential'' and Commercial sectors (currently 0.6

percent of total annual domestic distribution). Some of the data for the agriculture, mining, and construction industries, as well as the residential and commercial sectors can be captured on the annual Form EIA–867, to the extent that coal consumption in these sectors is attributable to coal-fired generators larger than 1 MW. Quarterly estimates of national-level consumption in the agriculture, mining, construction, and residential and commercial sectors would be made by the EIA.

This option would fill the resulting data gap of quarterly production and producer stocks data by using Mine Safety and Health Administration (MSHA) quarterly coal production and producer stock data so that no quarterly coal production or stock data would be collected by EIA. MSHA plans to collect producer stock data for EIA on their quarterly survey Form 7000–2, ''Quarterly Mine Employment and Coal Production Report.'' Distributor stock data would be estimated by the EIA at the National level.

EIA–3

This option would add State of origin of coal receipts data to the EIA–3 to fill one of the data gaps from elimination of the EIA–6. Coal consumption, cost, adjustments, and coal stocks (Columns B, D, E, F, and G of the current form) would be reported in the aggregate only. We propose to delete the requirement for disaggregation by coal rank (anthracite, bituminous, subbituminous, and lignite) and replace it with a check-off box to indicate the predominant rank of coal receipts.

In Part III of this survey, we propose to delete the question relating to the share of electricity sold to electric utilities and rely on the EIA–867 for this information.

EIA–5

This option would add State of origin of coal receipts to the EIA–5 to fill another of the data gaps from elimination of the EIA–6. Coal consumption, cost, adjustments, and coal stocks (Columns B, E, F, and G of the current form) would be reported in the aggregate only. We propose to delete the requirement for disaggregation of all coal data by coal rank. Additionally, a column would be added to Part III of the current form to clarify reporting for intra-company transfers of coke.

EIA–3A/EIA–5A

We propose to reduce the frequency of these surveys from annual to triennial.

EIA–7A

Since the reporting requirements for this survey can vary significantly, depending upon the type of respondent (mine only, preparation plant only, and mine collocated with preparation plant), we propose to have a common identification page and split the remainder of this survey into three separate schedules, each of which will be tailored to the type of respondent.

In addition, we propose to eliminate the collection of certain identification information and employment data, relying instead on MSHA data on Form 7000–2 for this information.

EIA–1/EIA–4/EIA–20

These are standby forms that would be used to monitor coal receipts, coal consumption, and coal stocks at major coal-burning facilities in the event of a coal supply disruption. We propose to request that these forms be re-cleared without changes.

Option 2 Burden Impact

The annual respondent burden for the current coal forms is 19,380 hours. The EIA estimates that Option 2 would reduce the annual respondent burden to 4,147 hours, a decrease of 15,233 hours (79 percent).

III. Request for Comments

Prospective respondents and other interested parties should comment on the actions (Options 1 and 2) discussed in item II. Comments are also invited, as required by the Paperwork Reduction Act, on the coal data collections, EIA–1, 3, 3A, 4, 5, 5A, 6, and 7A. The following guidelines are provided to assist in the preparation of your responses. When commenting on specific form(s), please indicate to which form(s) your comments apply.

General Issues

EIA is interested in receiving comments from persons regarding:

A. Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility. Practical utility is the actual usefulness of information to or for an agency, taking into account its accuracy, adequacy, reliability, timeliness, and the agency's ability to process the information it collects.

B. What enhancements can EIA make to the quality, utility, and clarity of the information to be collected?

As a Potential Respondent

C. Are the instructions and definitions clear and sufficient? If not, which instructions require clarification?

D. Can data be submitted in accordance with the due date specified in the instructions?

E. Public reporting burden hours per response for both options in this collection are detailed below.

Form	Option 1	Option 2
EIA–1	1.0	1.0
EIA–3	.4	.8
EIA–3A	.33	.33
EIA–4	1.0	1.0
EIA–5	.9	1.4
EIA–5A	.33	.33
EIA–6	5.0	0
EIA–7A	.5	.5
EIA–20	1.0	1.0

Burden includes the total time, effort, or financial resources expended to generate, maintain, retain, or disclose or provide the information including: (1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

Please comment on (1) the accuracy of our estimate, and (2) how the agency could minimize the burden of the collection of information, including the use of automated collection techniques or other forms of information technology.

F. What is the estimated cost of completing the form(s), including the direct and indirect costs associated with the data collection? Direct costs should include all costs, such as administrative costs, directly attributable to providing this information.

G. Do you know of any other Federal, State, or local agency that collects similar data? If you do, specify the agency, the data element(s), and the methods of collection.

H. Which option do you prefer and why (Option 1 or Option 2)?

I. If you have the capability, what is your electronic reporting preference (FAX, Touch-Tone Telephone Data Entry, Internet, etc.)?

As a Potential User

J. Can you use data at the levels of detail indicated on the form(s)?

K. For what purpose would you use the data? Be specific.

L. Are there alternate sources of data and do you use them? If so, what are their deficiencies and/or strengths?

M. For the most part, coal data is published by EIA in short tons of coal. Would you prefer to see EIA publish more data in metric tons? If yes, please specify what information (e.g., coal production, coal consumption) and in which EIA publication(s) you would like to see such information.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the form(s). They also will become a matter of public record.

Statutory Authority: Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13).

Issued in Washington, DC, September 6, 1995.

John Gross,

Acting Director, Office of Statistical Standards, Energy Information Administration.

[FR Doc. 95–22629 Filed 9–11–95; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Project Nos. 432–022, et al.]

Hydroelectric Applications, Carolina Light and Power Company, et al.; Notice of Applications

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

1 a. *Type of Application:* Whitewater Recreation Management and Site Development Plan.

b. *Project No.:* 432–022.

c. *Date Filed:* August 1, 1995.

d. *Applicant:* Carolina Power and Light Company.

e. *Name of Project:* Walters.

f. *Location:* Pigeon River, Haywood County, North Carolina.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* R.M. Coats, Manager, Carolina Power and Light Company, P.O. Box 1551, Raleigh, NC 27602, (919) 546–6031.

i. *FERC Contact:* Patti Pakkala, (202) 219–0025.

j. *Comment Date:* October 19, 1995.

k. *Description of Project:* Carolina Power and Light Company (CP&L), licensee for the Walters Project, requests approval of a whitewater recreation management and site development plan. As part of this plan, CP&L requests approval for developing a whitewater rafting staging area and launch ramps directly downstream of the Walters Project powerhouse, on the Pigeon River. The ramps and staging area are to be available to both public boaters and commercial rafting companies. The plan also establishes management guidelines for the recreational use of the river.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

2 a. *Type of Application:* Amendment to Recreation Plan.

b. *Project No.:* 2685–003.

c. *Date Filed:* June 30, 1995.

d. *Applicant:* New York Power Authority.

e. *Name of Project:* Blenheim-Gilboa.

f. *Location:* Schoharie Creek, Schoharie County, New York.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Charles Lipsky, New York Power Authority,123 Main Street, White Plains, NY 10601, (914) 681–6200.

i. *FERC Contact:* Patti Pakkala, (202) 219–0025.

j. *Comment Date:* October 19, 1995.

k. *Description of Project:* New York Power Authority (Authority), licensee for the Blenheim-Gilboa Project, requests approval of an amendment to the project recreation plan. Specifically, the Authority requests approval of a proposal to implement an archery hunting program on certain project lands. The hunting area would be designated with safety zones and would be jointly administered by the Authority and the New York State Department of Environmental Conservation.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

3 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11553–000.

c. *Date filed:* July 13, 1995.

d. *Applicant:* Lace River Hydro.

e. *Name of Project:* Lace River.

f. *Location:* In Tongass National Forest, at an unnamed lake, on an unnamed tributary of the Lace River, in the Borough of Juneau, Alaska. Township 34S, Range 63E, Sections 33 to 36, Township 35S, Range 63E, Sections 1 to 4, 8, 9, 17 to 19, Township 35S, Range 63E, Section 19 and Township 35S, Range 62E Sections 5, 8, 16, 17, 22 to 24.

g. *Filed Pursuant to:* Federal Power Act 16 USC §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Earle V. Ausman, 1503 West 33rd Avenue,Anchorage, AK 99503, (907) 258–2420.

i. *FERC Contact:* Michael Spencer at (202) 219–2846.

j. *Comment Date:* November 13, 1995.

k. *Description of Project:* The proposed project would consist of: (1) either a siphon intake or a new 20-foot-high timber buttress dam; (2) the existing unnamed lake has a surface area of 384 acres and 7,600 acre-feet of storage, if the dam is built the surface area would become 420 acres and storage would be 8,400 acre-feet; (3) a 7,600-foot-long, 21-inch-diameter penstock; (4) a powerhouse containing one generating unit with a capacity of 4,900 kW and an average annual generation of 34.1 GWh; and (5) a 5-mile-long transmission line.

No new access road will be needed to conduct the studies. The applicant estimates that the cost of the studies to be conducted under the preliminary permit would be $50,000.

l. *Purpose of Project:* Project power would be sold.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

4 a. *Type of Application:* Surrender of License.

b. *Project No.:* 8133–053.

c. *Date Filed:* July 19, 1995.

d. *Applicant:* B.S. Inc.

e. *Name of Project:* East Fork Ditch Hydropower.

f. *Location:* On the East Fork Weiser River, in Adams County, ID.

g. *Filed Pursuant to:* Federal Power Act, 16 USC Section 791(a)–825(r).

h. *Applicant Contact:* David J. Stecher, B.S. Inc., 8211 Chesterfield Avenue, Boise, ID 83704, (208) 322–2943.

i. *FERC Contact:* Regina Saizan, (202) 219–2673.

j. *Comment Date:* October 19, 1995.

k. *Description of Application:* The licensee seeks to surrender the license for this unconstructed project because it is insolvent and is unable to proceed with construction.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

Standard Paragraphs

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing

preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, Room 1027, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: September 6, 1995, Washington, DC.

Lois D. Cashell,

Secretary.

[FR Doc. 95–22538 Filed 9–11–95; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. MT95–18–000]

Alabama-Tennessee Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

September 6, 1995.

Take notice that on August 31, 1995, Alabama-Tennessee Natural Gas Company tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheet, to become effective September 1, 1995:

First Revised Sheet No. 149

In connection with this change, Alabama-Tennessee states that it has filed a revised statement of procedures for compliance with the Standards of Conduct required pursuant to 18 CFR 161.3 and a report as to how it is complying with Standards E, F, and G required by the Commission in its August 2, 1995 order in this proceeding.

Alabama-Tennessee has requested any waivers that may be required to accept and approve its filing as submitted.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 13, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–22539 Filed 9–11–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM96–1–20–000]

Algonquin Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

September 6, 1995.

Take notice that on August 31, 1995, Algonquin Gas Transmission Company (Algonquin), filed to update its Annual Charge Adjustment (ACA). Algonquin tendered for filing as part of its FERC Gas Tariff, the following tariff sheets:

Fourth Revised Volume No. 1

Tenth Revised Sheet No. 21
Tenth Revised Sheet No. 22
Seventh Revised Sheet No. 23
Seventh Revised Sheet No. 24
Seventh Revised Sheet No. 25
Seventh Revised Sheet No. 27
Sixth Revised Sheet No. 29
Sixth Revised Sheet No. 31
Sixth Revised Sheet No. 35

Original Volume No. 2

Seventh Revised Sheet No. 259

Fifth Revised Sheet No. 343
Fourth Revised Sheet No. 431

Algonquin states that this filing decreases its current ACA charge by $0.0001 per MMBtu to $.0022 per MMBtu. Algonquin respectfully requests that these tariff sheets be accepted effective October 1, 1995.

Algonquin states that copies of this tariff filing were mailed to all firm customers of Algonquin and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 13, 1995. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–22543 Filed 9–11–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM96–1–48–000]

ANR Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

September 6, 1995.

Take notice that on August 31, 1995, ANR Pipeline Company (ANR) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1 and Original Volume No. 2, tariff sheets as referenced below, proposed to be effective October 1, 1995:

Second Revised Volume No. 1

Eighth Revised Sheet No. 17

Original Volume No. 2

Second Revised Sheet No. 14

ANR states that the above referenced tariff sheets are being filed to adjust its Annual Charge Adjustment (ACA) rate as permitted by Section 24 of its Second Revised Volume No. 1 FERC Gas Tariff. The new ACA rate to be charged by ANR will be effective October 1, 1995.

ANR states that all of its customers and interested State Commissions have been mailed a copy of this filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such petitions or protests should be filed on or before September 13, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–22546 Filed 9–11–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM96–1–32–000]

Colorado Interstate Gas Company; Notice of Tariff Filing

September 6, 1995.

Take notice that on August 31, 1995, Colorado Interstate Gas Company (CIG) filed Thirteenth Revised Sheet No. 11 of its FERC Gas Tariff, First Revised Volume No. 1, reflecting an increase in the fuel retention percentage for Lost, Unaccounted-For and Other Fuel Gas from (1.16%) to (1.12%), reflecting an increase in the fuel retention percentage for Transportation Fuel Gas from 1.92% to 2.17%, and reflecting a decrease in the fuel retention percentage for Storage Fuel Gas from 1.46% to 1.36% effective October 1, 1995.

CIG states that copies of this filing have been served on CIG's jurisdictional customers and public bodies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR Sections 385.214, and 385.211). All such petitions or protests should be filed on or before September 13, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–22544 Filed 9–11–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM96–1–70–000]

Columbia Gulf Transmission Company; Notice of Proposed Changes In FERC Gas Tariff

September 6, 1995.

Take notice that on August 31, 1995, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, to be effective October 1, 1995:

Eighth Revised Sheet No. 018
Eighth Revised Sheet No. 019

Columbia Gulf states that the listed tariff sheets set forth the adjustment to its rates applicable to the Annual Charge Adjustment (ACA), pursuant to the Commission's Regulations and Section 32 of the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1.

Columbia Gulf states further that it has recalculated the Commission's revised ACA per Mcf of $0.0023 to a rate per Dth of $0.0023. The adjusted ACA Unit Surcharge will be billed for the fiscal year commencing October 1, 1995.

Columbia Gulf states that copies of the filing were served upon the Company's firm customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before September 13, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of Columbia's filings are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–22547 Filed 9–11–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM96–1–34–000]

Florida Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

September 6, 1995.

Take notice that on August 31, 1995, Florida Gas Transmission Company (FGT), tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to become effective October 1, 1995:

Fifth Revised Eighth Revised Sheet No. 8A
Fourth Revised Sheet No. 8A.01
Fourth Revised Original Sheet No. 8A.02
Third Revised Seventh Revised Sheet No. 8B
Third Revised Original Sheet No. 8B.01

FGT states that the instant filing is submitted in conformance with the requirements of Section 27 of its FERC Gas Tariff, Third Revised Volume No. 1, which provides that FGT will file a Fuel Reimbursement Charge Adjustment to be effective each April 1 and October 1, as applicable. Section 27.C. states that the Current Fuel Reimbursement Charge Percentage will be the quotient resulting from fuel used and lost and unaccounted for gas, less fuel retained for Western Division deliveries, divided by volumes delivered, excluding Western Division deliveries, during the six-month period commencing one year prior to the effective date of the Fuel Reimbursement Charge Adjustment. Further, Section 27.C. permits FGT to file for adjustments to that calculation to provide for known and measurable changes if documented by supporting work papers.

FGT states it has extended the period for computing the Current Fuel Reimbursement Charge Percentage an additional two months in order to reflect the known and measurable changes in actual fuel usage and unaccounted for volumes which have occurred in the most recent two months for which accounting data is available. FGT states this adjustment is required in order to more precisely reflect fuel usage and unaccounted for volumes currently being experienced by FGT. The proposed Current Fuel Reimbursement Charge Percentage as determined by the ratio of fuel usage and unaccounted for volumes to deliveries, exclusive of Western Division fuel and deliveries, for the period October 1, 1994 through May 31, 1995 is 3.26%, a reduction from the previously effective Current Fuel Reimbursement Charge Percentage of 3.34%.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with Sections 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 13, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–22545 Filed 9–11–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM96–1–11–000]

Koch Gateway Pipeline Company; Notice of Filing of Revised Tariff Sheets

September 6, 1995.

Take notice that on August 31, 1995, Koch Gateway Pipeline Company (Koch Gateway), tendered for filing to become part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets to be effective October 1, 1995:

Seventh Revised Sheet No. 20
Seventh Revised Sheet No. 21
Seventh Revised Sheet No. 22
Fourth Revised Sheet No. 23
Seventh Revised Sheet No. 24

Koch Gateway states that the above referenced tariff sheets reflect a revision to the unit rate of the Annual Charge Adjustment (ACA) Clause to be generally applied to interstate natural gas pipeline rates for the recovery of the 1995 Annual Charges, pursuant to Order No. 472.

Koch Gateway states that this revision authorizes Koch Gateway to collect $0.0023 per each Mcf ($0.0022 per Mmbtu as converted on Koch Gateway's system) of natural gas transported applicable to the 1995 Annual Charge assessed Koch Gateway by the Commission under Part 382 of the Commission's Regulations.

Koch Gateway also states that the tariff sheets are being mailed to its customers and to interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with sections 385.214 and 385.211 of the Commission's Regulations. All such motions or protests should be filed on or before September 13, 1995. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a Motion to Intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–22542 Filed 9–11–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM96–1–114–000]

Mobile Bay Pipeline Company; Notice of Filing of Revised Tariff Sheets

September 6, 1995.

Take notice that on August 31, 1995, Mobile Bay Pipeline Company (Mobile Bay) tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets to be effective October 1, 1995:

Second Revised Sheet No. 4

Mobile Bay states that the above referenced tariff sheets reflect a revision to the unit rate of the Annual Charge Adjustment (ACA) Clause to be generally applied to interstate natural gas pipeline rates for the recovery of the 1992 Annual Charges, pursuant to Order No. 472.

Mobile Bay states that this revision authorizes Mobile Bay to collect $0.0023 per each Mcf of natural gas transported applicable to the 1995 Annual charge assessed Mobile Bay by the Commission under Part 382 of the Commission's Regulations.

Mobile Bay also states that the tariff sheets are being mailed to its customers and to interested State commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Regulations. All such motions or protests should be filed on or before September 13, 1995. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–22548 Filed 9–11–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM96–1–9–000]

Tennessee Gas Pipeline Company; Notice of Proposed Changes In FERC Gas Tariff

September 6, 1995.

Take notice that on August 31, 1995, Tennessee Gas Pipeline Company (Tennessee) tendered for filing to become part of its FERC Gas Tariff, Fifth Revised Volume No. 1, Fourteenth Revised Sheet No. 30, with a proposed effective date of October 1, 1995.

Tennessee states that the purpose of this filing is to reflect a decrease in the ACA rate adjustment to Tennessee's commodity rates for the period October 1, 1995 through September 30, 1996. Tennessee states that the tariff sheet reflects a decrease of $.0001 per Dth in the ACA adjustment surcharge, resulting in a new ACA rate of $.0022/Dth.

Tennessee states that copies of the filing have been mailed to all affected parties.

Any persons desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR Sections 385.211 and 385.214). All such motions or protests should be filed before September 13, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but persons wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–22541 Filed 9–11–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–197–004]

Transcontinental Gas Pipe Line Corporation; Notice of Tariff Filing

September 6, 1995.

Take notice that on August 31, 1995, Transcontinental Gas Pipe Line Corporation (Transco), tendered for filing certain revised tariff sheets to its FERC Gas Tariff, Third Revised Volume No. 1 and Original Volume No. 2. The proposed effective date of the revised tariff sheets is September 1, 1995.

Transco states that the purpose of the instant filing is to place into effect on September 1, 1995, upon the conclusion of the suspension period in this proceeding, the rates filed herein on March 1, 1995, as adjusted (1) to eliminate the costs associated with facilities not in service as of August 31, 1995, the end of the RP95–197 test period (2) to incorporate, as appropriate, intervening filings which have been made effective or are pending before the Commission to become effective subsequent to the March 1, 1995, filing in this docket and (3) to revise tariff sheet nos. 1300A and 1300B (Rate Schedule X–140) in compliance with the Commission's June 20, 1995 order on rehearing.

Transco states that it is serving copies of the instant filing to its customers, State commissions and other interested parties to Docket No. RP95–197.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E. Washington, D.C. 20426, in accordance with 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 13, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–22540 Filed 9–11–95; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5294–7]

Agency Information Collection Activities up for Renewal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) listed below is coming up for renewal. Before submitting the renewal package to the Office of Management and Budget (OMB), EPA is soliciting comments on specific aspects of the collection as described below.

DATES: Comments must be submitted on or before November 13, 1995.

ADDRESSES: Office of Solid Waste and Emergency Response, 401 M Street SW., Washington, DC 20460, MS 5101.

Remit Comments to: Sella M. Burchette, US EPA/ERT, 2890 Woodbridge Ave, Blg 18, MS 101, Edison, NJ 08837–3679.

FOR FURTHER INFORMATION CONTACT: Sella M. Burchette, (908) 321–6726 / FAX: (908) 321–6724 / burchette.sella@epamail.epa.gov

SUPPLEMENTARY INFORMATION: Affected entities: Entities affected by this action are those State and local employees engaged in hazardous waste operations and emergency response in the 27 States that do not have Occupational Safety and Health Administration (OSHA) approved State plans.

Title: EPA Worker Protection Standard for Hazardous Waste Operations and Emergency Response, EPA ICR # 1426.03, OMB Control # 2050–0105, Expiration 1–31–96.

Abstract: Section 126 (f) of the Superfund Amendments and Reauthorization Act of 1986 (SARA) require EPA to set worker protection standards for State and local employees engaged in hazardous waste operations and emergency response in the 27 States that do not have Occupational Safety and Health Administration approved State plans. The EPA coverage, required to be identical to the OSHA standards, extends to three categories of employees: those in clean-ups at uncontrolled hazardous waste sites, including corrective actions at Treatment, Storage and Disposal (TSD) facilities regulated under the Resource Conservation and Recovery Act (RCRA); employees working at routine hazardous waste operations at RCRA TSD facilities; and employees involved in emergency response operations without regard to location. This ICR renews the existing mandatory recordkeeping collection of ongoing activities including monitoring of any potential employee exposure at uncontrolled hazardous waste site, maintaining records of employee training, refresher training, medical exams, and reviewing emergency response plans.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimates of the burden of the proposed collection of information;

(iii) Enhance the quality, utility and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology, e.g. permitting electronic submission of responses.

Burden Statement: The annual recordkeeping burden for this collection is estimated to average 10.64 hours per site or event. The estimated number of respondents is approximated at 100 RCRA regulated TSD facilities or uncontrolled hazardous waste sites; 23,900 State and local police departments, fire departments or hazardous materials response teams. The estimated total burden hours on respondents: 255,427. The frequency of collection: continuous maintenance or records. No person is required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are displayed in 40 CFR part 9.

Send comments regarding these matters, or any other aspect of the information collection, including suggestions for reducing the burden, to the address listed above.

Dated: September 6, 1995.

Stephen D. Luftig,

Director, Office of Emergency and Remedial Response.

[FR Doc. 95–22622 Filed 9–11–95; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2097]

Petition for Reconsideration of Actions in Rulemaking Proceedings; September 7, 1995

Petition for reconsideration has been filed in the Commission rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street NW., Washington, DC or may be purchased from the Commission's copy contractor ITS, Inc. (202) 857–3800. Opposition to this petition must be filed by September 27, 1995. See § 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Administration of the North American Numbering Plan. (CC Docket No. 92–237)
Number of Petitions Filed: 2

Subject: Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992—Rate Regulations. (MM Docket Nos. 92–266 and 93–215)
Number of Petitions Filed: 2

Subject: Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Romeny, West Virginia) (MM Docket No. 94–137 and RM–8532)
Number of Petitions Filed: 1.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–22533 Filed 9–11–95; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

[Docket No. AS95–1]

Appraisal Subcommittee; Appraisal Regulation; Temporary Practice and Reciprocity

AGENCY: Appraisal Subcommittee, Federal Financial Institutions Examination Council.

ACTION: Notice.

SUMMARY: The Appraisal Subcommittee (''ASC'') of the Federal Financial Institutions Examination Council is publishing this Notice to solicit public comments on how it should implement section 315 of the Riegle Community Development and Regulatory Improvement Act of 1994 (''CDRIA''). The ASC anticipates that the comments generated during this process will facilitate the establishment of a more efficient and uniform system for providing temporary practice and reciprocity to State certified and licensed appraisers.

DATES: Comments must be received on or before December 11, 1995.

ADDRESSES: Persons wishing to submit written comments should file them with Edwin W. Baker, Executive Director, Appraisal Subcommittee, 2100 Pennsylvania Avenue NW., Suite 200, Washington, D.C. 20037. Comments may be forwarded via fax to (202) 634–6555 or by Internet e-mail to asc@apo.com. All comment letters, including those filed electronically, should refer to Docket No. AS95–1. All comment letters will be available for public inspection and copying at the ASC's offices. Comments submitted electronically also will be publicly available in the ASC Forum on Appraisal Profession Online at (703) 478–5502.

FOR FURTHER INFORMATION CONTACT: Edwin W. Baker, Executive Director, or Marc L. Weinberg, General Counsel, at (202) 634–6520, Appraisal Subcommittee, 2100 Pennsylvania Avenue NW., Suite 200, Washington, D.C. 20037.

SUPPLEMENTARY INFORMATION:

I. Introduction and Background

Since January 1, 1993, Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (''Title XI''), as amended,[1] has required all federally regulated financial institutions to use State licensed or certified real estate appraisers, as appropriate, to perform appraisals in federally related transactions. *See* § 1119(a) of Title XI, 12 U.S.C. 3348(a). In response to Title XI, each State, territory and the District of Columbia (''State'') has established a regulatory program for certifying, licensing and supervising real estate appraisers. In turn, the ASC has been closely monitoring State programs to ensure their compliance with Title XI.

While Title XI authorizes each State to certify, license, and supervise real estate appraisers within its jurisdiction, the Title also provides a means for appraisers licensed or certified in one State to practice on a temporary basis in another State. Section 1122(a)(1) of Title XI, 12 U.S.C. 3351(a)(1), specifically requires ''[a] State appraiser certifying or licensing agency [to] recognize on a temporary basis the certification or license of an appraiser issued by another State if—(A) the property to be appraised is part of a federally related transaction, (B) the appraiser's business is of a temporary nature, and (C) the appraiser registers with the appraiser certifying or licensing agency in the State of temporary practice.''

As discussed in more detail below, reciprocity provides appraisers certified or licensed in one State with a means to practice in another State on a permanent basis. While Title XI, until recently, did not specifically mention reciprocity, the ASC encouraged States to enter into reciprocal appraiser licensing and certification agreements and arrangements.

In September 1994, Section 315 of CDRIA was enacted. Pub. L. 103–325, 108 Stat. 2160, 2222 (1994). CDRIA amended Section 1122(a) of Title XI by adding new subparagraph (2) pertaining to temporary practice and new paragraph (b) regarding reciprocity:

[1] Pub. L. 101–73, 103 Stat. 183 (1989), as amended by Pub. L. 102–233, 105 Stat. 1792 (1991), Pub. L. 102–242, 105 Stat. 2386 (1991), Pub. L. 102–550, 106 Stat. 3672 (1992), Pub. L. 102–485, 106 Stat. 2771 (1992), and Pub. L. 103–325, 108 Stat. 2222 (1994).

(2) *Fees for temporary practice.* A State appraiser certifying or licensing agency shall not impose excessive fees or burdensome requirements, as determined by the Appraisal Subcommittee, for temporary practice under this subsection.

* * * * *

(b) *Reciprocity.* The Appraisal Subcommittee shall encourage the States to develop reciprocity agreements that readily authorize appraisers who are licensed or certified in one State (and who are in good standing with their State appraiser certifying or licensing agency) to perform appraisals in other States.

The Senate Report to accompany S. 1275, issued on October 28, 1994, by the Senate Committee on Banking, Housing, and Urban Affairs, said:

> The Committee's intent is to enable qualified appraisers to practice in a number of States without anticompetitive restrictions. S. Rep. No. 103–169, 103d Cong., 2d Sess. 53 (1994), reprinted in 1994 U.S. Code Cong. & Admin. News 1937.

II. ASC Policies Regarding, and Current Status of, Temporary Practice

Soon after the full implementation of Title XI in January 1993, and based on the ASC's reviews of State appraiser regulatory programs, the ASC issued *Policy Statements Regarding State Certification and Licensing of Real Estate Appraisers* (August 1993). Policy Statement 5 specifically addressed temporary practice issues. The Statement, among other things: (1) Recognized that a certified or licensed appraiser from State A, who has an assignment concerning a federally related transaction in State B, has a statutory right to enter State B, register with the State agency in State B and perform the assignment; and (2) informed States that: (a) they could not unreasonably hamper the exercise of temporary practice rights, (b) out-of-State certified or licensed appraisers should register for temporary practice prior to performing the subject appraisal, and (c) temporary practice systems should process registrations promptly and efficiently. The ASC suggested that an acceptable model for temporary practice procedures would include a nominal per assignment fee, proof of a valid license or certificate and the completion of a reasonable temporary practice registration form. The Statement covered several technical matters, such as defining the terms, ''assignment'' and ''temporary'' and providing guidance on permissible State limitations on temporary practice.

The Statement addressed how States should enforce their statutes and regulations regarding appraisers who perform appraisals as temporary practitioners. For example, out-of-State certified or licensed appraisers need to be subject to the host State's full regulatory jurisdiction and, therefore, must comply with the State's real estate appraisal statutes and regulations. Moreover, the State should treat temporary practitioners like any other appraisers certified or licensed by the State who wish to perform appraisals in federally related transactions. In addition, the Statement noted that the host State agency should take jurisdiction of any complaints regarding the temporary practicing appraiser's appraisal activities within the State.

As a matter of policy, the ASC, as part of the field review process, has written States agencies about temporary practice fees of $100 or more or permits issued on less than a per assignment basis, first requesting the basis for the restrictions and then, if appropriate, requesting liberalization of the restrictions. Some States have been responsive to the ASC's recommendations; others have not. While the ASC believes that Policy Statement 5 and its field review program have been effective in helping to ensure a certified or licensed appraiser's ability to engage in temporary practice, issues remain. Two States still do not permit temporary practice. Of the States that do, some impose short time limits on length of permits. In addition, almost 40 States require temporary practice registrants to file a ''letter of good standing,'' which must be obtained from the home State agency. This requirement often has resulted in unnecessary delays in the issuance of temporary practice permits. Moreover, States charge insurance fees, ranging from $5 to $40, per letter. Frequently, the charges must be paid by certified check, which results in further delays.

III. ASC Policies Regarding, and Current Status of, Reciprocity

The ASC, in Statement 6 of its *Policy Statements*, endorsed reciprocity and urged the States to establish permanent reciprocity arrangements promptly to address the needs of certified or licensed appraisers who practice on a non-temporary, multistate basis.[2] Many interested parties, including lenders and appraisers, have commented that reciprocity is at least as critical as temporary practice. As noted above, reciprocity involves a permanent recognition of another State's certified or licensed appraisers. It generally means that a host State will credential a person based upon that person having been credentialed by his or her home State. It also could involve mutual agreements or understandings among States for their certified or licensed appraisers to operate freely within those States without any further registration, credentialing, or administrative action. At this time, no States have implemented reciprocity agreements of this nature.

Reciprocity, as practiced today, requires that an appraiser who is certified or licensed in State A and reciprocally certified or licensed in State B must comply with both States' appraiser laws, including those requiring continuing education and the payment of certification, licensing and Federal fees. Generally, the appraiser is not required to take and pass State B's certification or licensing examinations. The appraiser, however, usually must submit, to State B, a copy of his or her credentials, a statement of good standing, a consent to local service of process and the payment of appropriate fees. Or, State B might grant the requested certificate or license ''by endorsement'' upon payment of State's B's certification or licensing fee. Many States use both methods. A few States may accept the examination results of other States, but require the applicant to complete the remainder of the application, which then is fully reviewed by the State agency. As of December 31, 1994, all but one State had some sort of reciprocity program in place.

Differences in reciprocity procedures and requirements remain problematic. While some regions of the United States have successfully arrived at regional reciprocity agreements, others have not, in part because some States have higher education and experience requirements for applicants than those promulgated by the Appraiser Qualifications Board (''AQB''). Other States require letters of good standing from *each* State of certification or licensing. In the ASC's view, these differences continue to burden the free movement of certified or licensed appraisers across State lines and to cause confusion among appraisers and users of appraisal services.

The ASC believes that States should accept other States' certifications and licenses without reexamining

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[2] The ASC suggested in the Policy ''that States consider implementing, at a minimum, the following features in their reciprocity policies:

- A simple application;
- No reexamination;
- No additional review of an applicant's education or experience;
- Reciprocal licensing or certification fees similar in amount to the corresponding fees for 'home' State appraisers; and
- The collection and forwarding to the ASC of the National Registry [of State Certified or Licensed Real Estate Appraisers (''National Registry'')] fee for each reciprocally licensed or certified appraiser.''

applicants' underlying education or experience, as long as each State has appraiser qualification criteria that meet the minimum standards for certification and licensure as determined by the AQB, uses appraiser certification and licensing examinations that are AQB endorsed and continues to perform education and experience reviews competently.

IV. Alternatives

The ASC is publishing this Notice to solicit public comments on how it should implement Congress's directives as set forth in CDRIA. The ASC anticipates that the comments generated during this process will facilitate the establishment of a more efficient and uniform system for providing temporary practice and reciprocity to State certified and licensed appraisers. The following sections present for public consideration and comment several possible approaches.

A. A Universal ''Drivers License'' Approach to Both Temporary Practice and Reciprocity

While a State's licensing or certification of professionals, such as appraisers, differs in substantial ways from awarding persons permits to drive vehicles, a ''drivers license'' approach to both reciprocity and temporary practice seems to warrant serious consideration. States have successfully worked out procedures to honor valid drivers licenses of non-resident drivers and to prosecute their illegal driving activities under local law.

As applied to real estate appraisers, this approach would enable a real estate appraiser with a valid certification or license [3] to perform his or her appraisal functions in any State. To enforce violations, State agencies would have ready access to one or more systems to allow them to determine the status of any single certificate or license holder. Such a system could be based on records from, either the appraiser's home State of certification or licensure or the National Registry.

More specifically, an appraiser certified or licensed in State A could travel to State B and perform an appraisal without notifying State B's appraiser regulatory agency. While in State B, the appraiser would need to perform his or her duties in accordance with State B's appraiser statutes and regulations. If a complaint were filed with State B's appraiser regulatory agency respecting the activities of the appraiser while in State B, the complaint would be investigated and handled by State B, with that State sending a copy of the complaint to State A's appraiser regulatory agency. State A's agency would be encouraged to assist State B actively in its investigation, and State A could also take any independent disciplinary action within its power. Consistent with legal principles guiding interstate relations, State A would honor State B's final decision pertaining to the complaint.

B. Other Temporary Practice Alternatives

1. Specific Standards

This approach would establish specific guidelines for temporary practice fee levels and practices and procedures. The standards could:

- Make temporary practice available only on a ''per assignment'' basis;
- Prohibit time limitations of less than six months on the duration of temporary practice permits;
- Allow temporary practitioners to have one permit extension;
- Prohibit a State from charging a fee exceeding a fixed amount, *e.g.,* $50, for each temporary practice permit;
- Enable an appraiser to have at least two temporary practice permits per year;
- Prohibit mandatory affiliation requirements for temporary practitioners;
- Require a State's acceptance of an out-of-State appraiser's qualifications strictly on the basis of the presentation of his or her license or certification and sworn statement that it is in good standing in all States of certification or licensure. Existing State requirements for appraisers to obtain home State letters of good standing would be eliminated. Instead, an appraiser's status would be validated through the use of the National Registry (perhaps via electronic access) or the relevant State appraiser registry;
- Require out-of-State appraisers to register, rather than apply, for temporary practice;
- Require requests for temporary practice to be processed in no more than five business days from receipt;
- Require the State of temporary practice to take regulatory responsibility for a visiting appraiser's unethical, incompetent or fraudulent practices performed while within the State; and
- Require the State agency in the State of temporary practice to cooperate with, and provide assistance to, the home State agency in its investigation of the appraiser's practices.

2. Self-certification of Compliance with Specific Standards

This approach would incorporate the specific standards presented above, but would shift from the ASC to States and their State agencies the ongoing duty of ascertaining whether their temporary practice statutes, regulations, procedures, fees and practices are consistent with the ASC's standards. In essence, it would create a ''safe harbor'' for States and State agencies that conform to the ASC's standards. This safe harbor would vanish upon a determination by the State or the ASC that an element of the State's temporary practice program appears to unreasonably burden the free movement of certified or licensed appraisers across State lines.

3. General Standards

This approach would avoid specific standards of any kind and basically would incorporate Title XI's language into the ASC's written guidance to the States. Thus, the ASC would require States:

- To recognize on a temporary basis the certification or license of an appraiser issued by another State, if the property to be appraised is part of a federally related transaction, the appraiser's business is of a temporary nature and the appraiser registers with the State agency in the State of temporary practice; and
- Not to impose excessive fees or burdensome requirements for temporary practice, as determined by the ASC.

C. Other Reciprocity Approaches

The ASC is required by Title XI to ''encourage the States to develop reciprocity agreements,'' and those agreements need to ''readily authorize'' out-of-State licensed or certified appraisers (who are in good standing with their State) ''to perform appraisals in other States.'' The following approaches could be used separately or in tandem:

1. Create a General Federal Duty

The ASC could create a duty for each State and State agency to work expeditiously and conscientiously with other States and State agencies with a view toward satisfying the purposes of the statutory language. The ASC would monitor each State's progress and could take positive steps to work with and encourage States to work out issues and difficulties whenever appropriate.

[3] The appraiser would have only one license or certification. Because the single credential would enable the appraiser to practice in more than one State, States would no longer charge separate fees for temporary practice or reciprocity, and appraisers would have to pay only one annual National Registry fee to the ASC through their home State agency.

2. Request States to Create and File Plans

The ASC could request each State to draft and file with the ASC a plan to accomplish reciprocity with at least all contiguous States by a specific time. For States not sharing geographically contiguous borders with any other State, such as Alaska and Hawaii, those States would need to draft a plan to include States that certify or license appraisers who perform a significant number of appraisals in Alaska and Hawaii. The ASC would review each State's plan as part of its State agency monitoring function, and, wherever appropriate, work with the State and surrounding States to resolve issues and arrive at mutually satisfactory arrangements.

V. Request for Comments

A. In General

The ASC requests comment on all aspects of implementing the new legislation from interested members of the public, including appraisers, States and their State appraiser regulatory agencies, users of appraisal services and industry groups. The approaches set forth above are intended only to be starting points for discussion and comment, and the ASC welcomes variations or combinations of these approaches and the recommendation of other alternatives.

B. Specific Questions

(1) In your view, what are the most serious impediments to temporary practice or reciprocity? Please provide your best estimates of their costs in time and money, if possible.

(2) Do you beleive that these impediments warrant ASC action?

(3) Are any of the alternatives presented in Part IV especially well suited to removing the impediments, and what are your reasons for your choice?

(4) Do other alternatives exist? If so, please describe them.

(5) Are there any other issues related to temporary practice or reciprocity that should be brought to the ASC's attention?

By the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

Dated: August 31, 1995.

Diana L. Garmus,

Chairperson.

[FR Doc. 95–22518 Filed 9–11–95; 8:45 am]

BILLING CODE 6201–01–M

FEDERAL RESERVE SYSTEM

First Union Corporation, et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.'' Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than September 26, 1995.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. First Union Corporation, Charlotte, North Carolina; to acquire RS Financial Corporation, Raleigh, North Carolina, and thereby indirectly acquire Raleigh Federal Savings Bank, Raleigh, North Carolina, and engage in operating a savings association, pursuant to § 225.25(b)(9) of the Board's Regulation Y.

B. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Downs Bancshares, Inc., Downs, Kansas; to acquire Cushing Insurance, Inc., Downs, Kansas, and thereby engage in the sale of general insurance in a town of less than 5,000 in population, pursuant to § 225.25(b)(8)(iii)(A) of the Board's Regulation Y. The geographic scope for this activity is Downs, Kansas.

Board of Governors of the Federal Reserve System, September 6, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95-22575 Filed 9-11-95; 8:45 am]

BILLING CODE 6210-01-F

Passumpsic Bancorp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than October 6, 1995.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. Passumpsic Bancorp, St. Johnsbury, Vermont; to become a bank holding company by acquiring 100 percent of the voting shares of Passumpsic Savings Bank, St. Johnsbury, Vermont.

B. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104

Marietta Street, N.W., Atlanta, Georgia 30303:

1. Quantum Capital Corp., Suwanee, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Quantum National Bank, Suwanee, Georgia (in organization).

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Liberty Bancshares, Inc., Springfield, Missouri; to become a bank holding company by acquiring 100 percent of the voting shares of Liberty Bank, Springfield, Missouri, a *de novo* bank.

D. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. Dartmouth Capital Group, Inc., Gilford, New Hampshire, and Dartmouth Capital Group, L.P., Gilford, New Hampshire; to become bank holding companies by acquiring 52.90 percent of the voting shares of SDN Bancorp, Encinitas, California, and thereby indirectly acquire San Dieguito National Bank, Encinitas, California.

Comments regarding this application must be received by the Reserve Bank indicated or the offices of the Board of Governors not later than September 22, 1995.

Board of Governors of the Federal Reserve System, September 6, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95-22576 Filed 9-11-95; 8:45 am]

BILLING CODE 6210-01-F

Louis G. Titus, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than September 21, 1995.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Liscomb J. Titus and Paula E. Titus, Trustees of the Louis G. Titus Revocable Trust; to retain 51.2 percent; Paula E. Titus, individually, to retain an additional 27.6 percent; and John L. Titus, all of Holdrege, Nebraska, to retain 39.3 percent of the voting shares of LJT, Inc., Holdrege, Nebraska, and thereby indirectly acquire The First National Bank of Holdrege, Holdrege, Nebraska.

Board of Governors of the Federal Reserve System, September 1, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95-22566 Filed 9-11-95; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL TRADE COMMISSION

[File No. 951–0044]

Columbia/HCA Healthcare Corporation.; Consent Agreement With Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require a Nashville-based health care corporation to divest Poplar Springs Hospital, a psychiatric hospital facility in Petersburg, Virginia.

DATES: Comments must be received on or before November 13, 1995.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT:

Mark Horoschak, Bureau of Competition, Federal Trade Commission, S–3115, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580. (202) 326–2756

Oscar Voss, Bureau of Competition, Federal Trade Commission, S–3115, 6th Street and Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–2750

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order

The Federal Trade Commission (''Commission''), having initiated an investigation into the proposed acquisition of John Randolph Medical Center in Hopewell, Virginia, and certain related assets, by Columbia/HCA Healthcare Corporation (''Columbia/HCA'') from the Hopewell Hospital Authority, and it is now appearing that Columbia/HCA (''proposed respondent'') is willing to enter into an agreement containing an order to divest certain assets, to cease and desist from making certain acquisitions, and providing for other relief:

It is hereby agreed by and between the proposed respondent by its duly authorized officers and attorneys, and counsel for the Commission that:

1. The proposed respondent Columbia/HCA is a corporation organized, existing, and doing business under and by virtue of the laws of Delaware, with its principal place of business at One Park Plaza, Nashville, Tennessee 37203.

2. The proposed respondent admits all the jurisdictional facts set forth in the draft complaint.

3. The proposed respondent waives:

a. any further procedural steps;

b. the requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

c. all rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

d. any claim under the Equal Access to Justice Act.

4. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either

withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by the proposed respondent that the law has been violated as alleged in the draft complaint, or that the facts as alleged in the draft complaint, other than jurisdictional facts, are true.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of section 2.34 of the Commission's Rules, the Commission may, without further notice to the proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint and its decision containing the following order to divest and to cease and desist, and other relief in disposition of the proceedings, and (2) make information public with respect thereto. When so entered, the order shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to respondent's address as stated in this agreement shall constitute service. The proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or this agreement may be used to vary or contradict the terms of the order.

7. The proposed respondent has read the proposed complaint and order contemplated hereby. The proposed respondent understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. The proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

It is ordered that, as used in this order, the following definitions shall apply:

A. ''Columbia/HCA'' or ''respondent'' means Columbia/HCA Healthcare Corporation, its partnerships, joint ventures, companies, subsidiaries, divisions, and groups and affiliates controlled by Columbia/HCA; their directors, officers, employees, agents, and representatives; and their successors and assigns.

B. ''Commission'' means the Federal Trade Commission.

C. The ''Acquisition'' means the transaction contemplated by the October 31, 1994, agreement between Columbia/HCA and the Hopewell Hospital Authority, whereby Columbia/HCA will acquire John Randolph Medical Center in Hopewell, Virginia, and certain related assets.

D. ''Psychiatric hospital'' means a health care facility licensed or certified as a psychiatric hospital (except for a facility limited by its license or certificate to residential treatment or other long-term care), that provides 24-hour inpatient services for the psychiatric diagnosis, treatment, and care of persons suffering from acute mental illness or emotional disturbance, and may also provide treatment for alcohol or drug abuse.

E. ''Psychiatric unit'' means a department, unit, or other organizational subdivision of a general acute care or other non-psychiatric hospital, licensed or certified as a provider of inpatient psychiatric care (except for a facility limited by its license or certificate to residential treatment or other long-term care), that provides 24-hour inpatient services for the psychiatric diagnosis, treatment, and care of persons suffering from acute mental illness or emotional disturbance, and may also provide treatment for alcohol or drug abuse.

F. ''Psychiatric hospital facility'' means a psychiatric hospital, a non-psychiatric hospital with a psychiatric unit, or a psychiatric unit.

G. ''Psychiatric hospital services'' means the provision by psychiatric hospitals or psychiatric units of inpatient services for the psychiatric diagnosis, treatment, and care of persons suffering from acute mental illnesses or emotional disturbance, or alcohol or drug abuse. ''Psychiatric hospital services'' do not include the long-term psychiatric treatment provided by residential treatment facilities, other long-term treatment of chronic mental illnesses, or such treatment and other services provided by Federally-owned facilities and state mental hospitals.

H. To ''operate'' a psychiatric hospital facility means to own, lease, manage, or otherwise control or direct the operations of a psychiatric hospital facility directly or indirectly.

I. To ''acquire'' a psychiatric hospital facility means to directly or indirectly, through subsidiaries, partnerships, or otherwise:

1. Acquire the whole or any part of the assets of a psychiatric hospital facility;

2. Acquire the whole or any part of the stock, share capital, equity, or other interest in any person operating a psychiatric hospital facility;

3. Acquire or otherwise obtain the right to designate, directly or indirectly, directors or trustees of a psychiatric hospital facility; or

4. Enter into any other arrangement to obtain direct or indirect ownership, management, or control of a psychiatric hospital facility or any art thereof, including, but not limited to, a lease of or management contract for a psychiatric hospital facility.

J. ''Relevant area'' means the area in Virginia encompassing the independent cities of Colonial Heights, Hopewell, and Petersburg; Dinwiddie and Prince George counties; and those portions of Charles City and Chesterfield counties within a fifteen (15) mile radius of the present site of Poplar Springs Hospital in Petersburg, Virginia.

K. ''Affiliate'' means any entity whose management and policies are controlled in any way, directly or indirectly, by the person with which it is affiliated.

L. ''Person'' means any natural person, partnership, corporation, company, association, trust, joint venture, or other business or legal entity, including any governmental agency.

M. ''Assets and Businesses'' include, but are not limited to, all assets, properties, businesses, rights, privileges, contractual interests, licenses, and goodwill of whatever nature, tangible and intangible, including, without limitation, the following:

1. all real property interests (including fee simple interests and real property leasehold interests, whether as lessor or lessee), together with all buildings, improvements, and fixtures located thereon, all construction in progress thereat, all appurtenances thereto, and all licenses and permits related thereto (collectively, the ''Real Property'');

2. all contracts and agreements with physicians, other health care providers, unions, third party payors, HMOs,

customers, suppliers, sales representatives, distributors, agents, personal property lessors, personal property lessees, licensors, licensees, cosigners, and consignees (collectively, the ''Contracts'');

3. all machinery, equipment, fixtures, vehicles, furniture, inventories, and supplies (other than such inventories and supplies as are used in the ordinary course of business during the time that Columbia/HCA owns the assets) (collectively, the ''Personal Property'');

4. all research materials, technical information, management information systems, software, software licenses, inventions, trade secrets, technology, know how, specifications, designs, drawings, processes, and quality control data (collectively, the ''Intangible Personal Property'');

5. all books, records, and files, excluding, however, the corporate minute books and tax records of Columbia/HCA and its affiliates; and

6. all prepaid expenses.

II

It is further ordered that:

A. Respondent shall divest, absolutely and in good faith, within twelve (12) months of the date this order becomes final, all Assets and Businesses, including all improvements, additions, and enhancements made prior to divestiture, of Poplar Springs Hospital in Petersburg, Virginia (the ''Paragraph II Assets'').

B. Respondent shall also divest such additional Assets and Businesses ancillary to the Paragraph II Assets and effect such arrangements as are necessary to assure the marketability, viability, and competitiveness of the Paragraph II Assets.

C. Respondent shall divest the Paragraph II Assets only to an acquirer or acquirers that receive the prior approval of the Commission, and only in a manner that receives the prior approval of the Commission. The purpose of the divestiture of the Paragraph II Assets is to ensure the continuation of the Paragraph II Assets as an ongoing, viable psychiatric hospital and to remedy the lessening of competition resulting from the Acquisition as alleged in the Commission's complaint.

D. Respondent shall comply with all terms of the Agreement to Hold Separate, attached hereto and made a part hereof as Appendix I. Said Agreement to Hold Separate shall continue in effect until such time as respondent has fulfilled the divestiture requirements of this order or until such other time as said Agreement to Hold Separate provides.

E. Pending divestiture of the Paragraph II Assets, respondent shall take such actions as are necessary to maintain the present marketability, viability, and competitiveness of the Paragraph II Assets, and to prevent the destruction, removal, wasting, deterioration, or impairment of the Paragraph II Assets, except for ordinary wear and tear.

F. A condition of approval by the Commission of the divestiture shall be a written agreement by the acquirer(s) of the Paragraph II Assets that it will not sell for a period of ten (10) years from the date of divestiture, directly or indirectly, through subsidiaries, partnerships, or otherwise, without prior notification to the Commission in the manner prescribed by Paragraph IV of this Order, any Paragraph II Asset to any person who operates, or will operate immediately following the sale, any other psychiatric hospital facility in the relevant area.

III

It is further ordered that:

A. If the respondent has not divested, absolutely and in good faith and with the Commission's prior approval the Paragraph II Assets, in accordance with this order, within twelve (12) months of the date this order becomes final, the Commission may appoint a trustee to divest the undivested Paragraph II Assets.

B. In the event that the Commission or the Attorney General brings an action for any failure to comply with this order or in any way relating to the Acquisition, pursuant to § 5(*1*) of the Federal Trade Commission Act, 15 U.S.C. § 45(*1*), or any other statute enforced by the Commission, the respondent shall consent to the appointment of a trustee in such action. Neither the appointment of a trustee nor a decision not to appoint a trustee under Paragraph III.A, shall preclude the Commission or the Attorney General from seeking civil penalties or any other relief available to it for any failure by the respondent to comply with this order.

C. If a trustee is appointed by the Commission or a court pursuant to Paragraph III.A of this order, the respondent shall consent to the following terms and conditions regarding the trustee's powers, duties, authority, and responsibilities:

1. The Commission shall select the trustee, subject to the consent of the respondent, which consent shall not be unreasonably withheld. The trustee shall be a person with experience and expertise in acquisitions and divestitures. If respondent has not opposed, in writing, including the reasons for opposing, the selection of any proposed trustee within ten (10) days after notice by the staff of the Commission to respondent of the identity of any proposed trustee, respondent shall be deemed to have consented to the selection of the proposed trustee.

2. Subject to the prior approval of the Commission, the trustee shall have the exclusive power and authority to divest the Paragraph II Assets.

3. Within ten (10) days after appointment of the trustee, respondent shall execute a trust agreement that, subject to the prior approval of the Commission and, in the case of a court-appointed trustee, of the court, transfers to the trustee all rights and powers necessary to permit the trustee to effect the divestiture required by this order.

4. The trustee shall have twelve (12) months from the date the Commission approves the trust agreement described in Paragraph III.C.3 to accomplish the divestiture(s), which shall be subject to the prior approval of the Commission. If, however, at the end of the twelve-month period, the trustee has submitted a plan of divestiture or believes that divestiture can be achieved within a reasonable time, the divestiture period may be extended by the Comission, or in the case of a court-appointed trustee, by the court; provided however, the Commission may extend this period only two (2) times.

5. The trustee shall have full and complete access to the personnel, books, records, and facilities related to the undivested Paragraph II Assets, or to any other relevant information as the trustee may request. Respondent shall develop such financial or other information as such trustee may reasonably request and shall cooperate with the trustee. Respondent shall take no action to interfere with or impede the trustee's accomplishment of the divestiture(s). Any delays in divestiture caused by respondent shall extend the time for divestiture under this Paragraph in an amount equal to the delay, as determined by the Commission or, for a court appointed trustee, by the court.

6. Subject to Columbia/HCA's absolute and unconditional obligation to divest at no minimum price the Paragraph II Assets (and subject to the terms described in Paragraph II.A), and to remedy the lessening of competition resulting from the Acquisition as alleged in the Commission's complaint, the trustee shall use his or her best efforts to negotiate the most favorable price and terms available in each contract that is submitted to the Commission, subject to

the respondent's absolute and unconditional obligation to divest at no minimum price. The divestiture(s) shall be made in the manner and to the acquirer as set out in Paragraph II; provided, however, if the trustee receives *bona fide* offers from more than one acquiring entity, and if the Commission determines to approve more than one such acquiring entity, the trustee shall divest to the acquiring entity, the trustee shall divest to the acquiring entity selected by respondent from among those approved by the Commission.

7. The trustee shall serve, without bond or other security, at the cost and expense of the respondent, on such reasonable and customary terms and conditions as the Commission or a court may set. The trustee shall have the authority to employ, at the cost and expense of respondent, such consultants, accountants, attorneys, investment bankers, business brokers, appraisers, and other representatives and assistants as are necessary to carry out the trustee's duties and responsibilities. The trustee shall account for all monies derived from the sale and all expenses incurred. After approval by the Commission and, in the case of a court-appointed trustee, by the court, of the account of the trustee, including fees for his or her services, all remaining monies shall be paid at the direction of the respondent and the trustee's power shall be terminated. The trustee's compensation shall be based at least in significant part on a commission arrangement contingent on the trustee's divesting the undivested Paragraph II Assests.

8. Respondent shall indemnify the trustee and hold the trustee harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the trustee's duties, including all reasonable fees of counsel and other expenses inclurred in connection with the preparation for, or defense of any claim, whether or not resulting in any liability, except to the extent that such liabilities, losses, damages, claims, or expenses result from misfeasance, gross negligence, willful or waton acts, or bad faith by the trustee.

9. If the trustee ceases to act or fails to act diligently, a substitute trustee shall be appointed in the same manner as provided in Paragraph III.A of this order.

10. The Commission or, in the case of a court-appointed trustee, the court, may on its own initiative, or at the request of the trustee, issue such additional orders or directions as may be necessary or appropriate to accomplish the divestiture(s) required by this order.

11. The trustee shall have no obligation or authority to operate or maintain the Paragraph II Assets.

12. The trustee shall report in writing to the respondent and to the Commission every sixty (60) days concerning the trustee's efforts to accomplish divestiture.

IV

It is further ordered that, for a period of ten (10) years from the date this order becomes final, respondent shall not, without providing advance written notification to the Commission directly or indirectly, through subsidiaries, partnerships, or otherwise:

A. Acquire any stock, share capital, equity, or other interest in any person operating a psychiatric hospital facility in the relevant area;

B. Acquire any assets of a psychiatric hospital facility in the relevant area;

C. Enter into any agreement or other arrangement to obtain direct or indirect ownership, management, or control of any psychiatric hospital facility, or any part thereof, in the relevant area, including but not limited to, a lease of or management contract for any such facility;

D. Acquire or otherwise obtain the right to designate, directly or indirectly, directors or trustees of any psychiatric hospital facility in the relevant area;

E. Permit any psychiatric hospital facility it operates in the relevant area to be acquired by any person that operates, or will operate immediately following such acquisition, any other psychiatric hospital facility in the relevant area.

Said notification shall be given on the Notification and Report Form set forth in the Appendix to Part 803 of Title 16 of the Code of Federal Regulations as amended (hereinafter referred to as ''the Notification''), and shall be prepared and transmitted in accordance with the requirements of that part, except that no filing fee will be required for any such notification, notification need not be made to the United States Department of Justice, and notification is required only of respondent and not of any other party to the transaction. Respondent shall provide the Notification to the Commission at least thirty days prior to consummating the transaction (hereinafter referred to as the ''first waiting period''). If, within the first waiting period, representatives of the Commission make a written request for additional information or documentary material (within the meaning of 16 CFR § 803.20), respondent shall not consummate the transaction until twenty days after submitting such additional information and documentary material. Early termination of the waiting periods in this paragraph may be requested and, where appropriate, granted in the same manner as is applicable under the requirements and provisions of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, 15 U.S.C. § 18a.

Provided, however, that prior notification pursuant to this Paragraph IV, or pursuant to Paragraph II.F. of this order, shall not be required for:

1. the establishment by respondent of a new psychiatric hospital facility in the relevant area: (a) that is a replacement for an existing psychiatric hospital facility, if that facility is operated by respondent and is not required to be divested pursuant to Paragraph II of this order; or (b) that is not a replacement for any psychiatric hospital facility in the relevant area;

2. any transaction otherwise subject to this Paragraph IV of this order if the fair market value of (or, in case of an asset acquisition, the consideration to be paid for) the psychiatric hospital facility or part thereof to be acquired does not exceed one million dollars ($1,000,000);

3. the acquisition of products or services in the ordinary course of business; or

4. any transaction for which notification is required to be made, and has been made, pursuant to Section 7A of the Clayton Act, 15 U.S.C. § 18a.

V

It is further ordered that, for a period of ten (10) years from the date this order becomes final, respondent shall not permit all, or any substantial part of, any psychiatric hospital facility it operates in the relevant area to be acquired by any other person (except pursuant to the divestiture required by Paragraph II), unless the acquiring person files with the Commission, prior to the closing of such acquisition, a written agreement to be bound by the provisions of this order, which agreement respondent shall require as a condition precedent to the acquisition.

VI

It is further ordered that:

A. Within sixty (60) days after the date this order becomes final and every sixty (60) days thereafter until the respondent has fully complied with Paragraph II of this order, respondent shall submit to the Commission a verified written report setting forth in detail the manner and form in which it intends to comply, is complying, and has complied with Paragraph II of this order. Respondent shall include in its

compliance reports, among other things that are required from time to time, a full description of the efforts being made to comply with Paragraph II of this order, including a description of all substantive contacts or negotiations for the divestitures and the identity of all parties contacted. Respondent shall include in its compliance reports copies of all written communications to and from such parties, all internal memoranda, and all reports and recommendations concerning the divestitures.

B. One (1) year from the date this order becomes final, annually for the next nine (9) years on the anniversary of the date this order becomes final, and at other times as the Commission may require, respondent shall file a verified written report with the Commission setting forth in detail the manner and form in which it has complied and it is complying with this order.

VII

It is further ordered that respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment, sale resulting in the emergency of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation that may affect compliance obligations arising out of the order.

VIII

It is further ordered that, for the purpose of determining or securing compliance with this order, the respondent shall permit any duly authorized representative of the Commission:

A. Access, during office hours and in the presence of counsel, to inspect and copy all books, ledgers accounts, correspondence, memoranda, and other records and documents in the possession or under the control of the respondent relating to any matters contained in this order; and

B. Upon five days' notice to respondent and without restraint or interference from it, to interview officers, directors, or employees of respondent, who may have counsel present regarding such matters.

Appendix I

Agreement To Hold Separate

This Agreement to Hold Separate (''Agreement'') is by and between Columbia/HCA Healthcare Corporation (''Columbia/HCA'' or ''respondent''), a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its principal place of business at One Park Plaza, Nashville, Tennessee 37203; and the Federal Trade Commission (''Commission''), an independent agency of the United States Government, established under the Federal Trade Commission Act of 1914, 15 U.S.C. § 41, et seq.

Premises

Whereas, on October 31, 1994, Columbia/HCA and the Hopewell Hospital Authority entered into an agreement whereby Columbia/HCA will acquire John Randolph Medical Center in Hopewell, Virginia, and certain related assets, from the Authority (the ''Acquisition''); and

Whereas, Columbia/HCA, with its principal place of business at One Park Plaza, Nashville, Tennessee 37203, owns and operates, among other things, psychiatric hospitals; and

Whereas, the Commission is now investigating the Acquisition to determine if it would violate any of the statutes enforced by the Commission; and

Whereas, if the Commission accepts the Agreement Containing Consent Order (''Consent Order''), which would require the divestiture of certain assets specified in Paragraph II of the Consent Order (''Paragraph II Assets''), the Commission must place the Consent Order on the public record for a period of at least sixty (60) days and may subsequently withdraw such acceptance pursuant to the provisions of Section 2.34 of the Commission's Rules; and

Whereas, the Commission is concerned that if an understanding is not reached, preserving the status quo ante of the Paragraph II Assets during the period prior to the final acceptance and issuance of the Consent Order by the Commission (after the 60-day public comment period), divestiture resulting from any proceeding challenging the legality of the Acquisition might not be possible, or might be less than an effective remedy; and

Whereas, the Commission is concerned that if the Acquisition is consummated, it will be necessary to preserve the Commission's ability to require the divestitures of the Paragraph II Assets, and the Commission's right to have the Paragraph II Assets continue as a viable psychiatric hospital independent of Columbia/HCA; and

Whereas, the purposes of this Agreement and the Consent Order are to:

(i) preserve the Paragraph II Assets as a viable, competitive, and ongoing psychiatric hospital, independent of Columbia/HCA, pending the divestitures of the Paragraph II Assets as required under the terms of the Consent Order;

(ii) prevent interim harm to competition from the operation of the Paragraph II Assets pending divestiture as required under the terms of the Consent Order; and

(iii) remedy any anticompetitive effects of the Acquisition; Whereas, respondent's entering into this Agreement shall in no way be construed as an admission by respondent that the Acquisition is illegal; and

Whereas, respondent understands that no act or transaction contemplated by this Agreement shall be deemed immune or exempt from the provisions of the antitrust laws or the Federal Trade Commission Act by reason of anything contained in this Agreement.

Now, therefore, the parties agree, upon understanding that the Commission has not yet determined whether the Acquisition will be challenged, and in consideration of the Commission's agreement that, at the time it accepts the Consent Order for public comment it will grant early termination of the Hart-Scott-Rodino waiting period, and unless the Commission determines to reject the Consent Order, it will not seek further relief from respondent with respect to the Acquisition, except that the Commission may exercise any and all rights to enforce this Agreement and the Consent Order to which it is annexed and made a part thereof, and in the event the required divestiture of the Paragraph II Assets is not accomplished, to appoint a trustee to seek divestiture of said assets pursuant to the Consent Order or to seek civil penalties or a court appointed trustee or other equitable relief, as follows:

1. Respondent agrees to execute the Agreement Containing Consent Order and be bound by the attached Consent Order.

2. Respondent agrees that from the date this Agreement is accepted until the earliest of the dates listed in subparagraphs 2.a or 2.b, it will comply with the provisions of paragraph 3 of this Agreement:

a. three (3) business days after the Commission withdraws its acceptance of the Consent Order pursuant to the provisions of Section 2.34 of the Commission's Rules; or

b. the day after the divestiture of the Paragraph II Assets, as required by the Consent Order, is completed.

3. To ensure the complete independence and viability of the Paragraph II Assets, and to assure that no competitive information is exchanged between Columbia/HCA and the managers of the Paragraph II Assets, respondent shall hold the Paragraph II Assets, as they are presently constituted, separate and apart on the following terms and conditions:

a. The Paragraph II Assets, as they are presently constituted, shall be held separate and apart and shall be managed and operated independently of respondent (meaning here and hereinafter, Columbia/HCA excluding the Paragraph II Assets), except to the extent that respondent must exercise direction and control over such assets to assure compliance with this Agreement or the Consent Order, and except as otherwise provided in this Agreement.

b. Prior to, or simultaneously with the Acquisition, respondent shall organize a distinct and separate legal entity, either a corporation, limited liability company, or general or limited partnership (''New Company'') and adopt constituent documents for the New Company that are not inconsistent with other provisions of this Agreement or the Consent Order; provided, however, that Columbia/HCA may designate as the ''New Company'' under this agreement, the ''New Company'' created pursuant to the Agreement to Hold Separate Regarding the Florida, Texas, and Louisiana Assets between Columbia/HCA and the Commission in connection with FTC File No. 951–0022. Respondent shall transfer all

ownership and control of all Paragraph II Assets to the New Company.

c. The board of directors of the New Company, or, in the event respondent organizes an entity other than a corporation, the governing body of the entity (''New Board''), shall have three members. Respondent shall elect the members of the New Board. The New Board shall consist of the following three persons: Winfield C. Dunn; Samuel H. Howard; and David C. Colby. The Chairman of the New Board shall be Winfield C. Dunn (provided he agrees), or a comparable, knowledgeable person, who shall remain independent of Columbia/HCA and competent to assure the continued viability and competitiveness of the Paragraph II Assets. The New Board shall include no more than one member who is a director, officer, employee, or agent of respondent, who shall be David C. Colby, provided he agrees, or a comparable knowledgeable person (''the respondent's New Board member''). The New Board shall meet monthly during the course of the Hold Separate, and as otherwise necessary.

Meetings of the New Board during the term of this Agreement shall be audiographically/transcribed and the tapes retained for two (2) years after the termination of this Agreement.

d. Respondent shall not exercise direction or control over, or influence directly or indirectly, the Paragraph II Assets, the independent Chairman of the Board of the New Company, the New Board, or the New Company or any of its operations or businesses; provided, however, that respondent may exercise only such direction and control over the New Company as is necessary to assure compliance with this Agreement or the Consent Order, or with all applicable laws.

e. Respondent shall maintain the viability, competitiveness, and marketability of the Paragraph II Assets; shall not sell, transfer, or encumber said Assets (other than in the normal course of business); and shall not cause or permit the destruction, removal, wasting, or deterioration, or otherwise impair their viability, competitiveness, or marketability of said Assets.

f. Except for the respondent's New Board member, respondent shall not permit any director, officer, employee, or agent of respondent to also be a director, officer, or employee of the New Company.

g. The New Company shall be staffed with sufficient employees to maintain the viability and competitiveness of the Paragraph II Assets, which employees shall be selected from the existing employee base of each facility or entity and may also be hired from sources other than these facilities and entities.

h. With the exception of the respondent's New Board Member, respondent shall not change the composition of the New Board unless the independent Chairman consents. The independent Chairman shall have power to remove members of the New Board for cause. Respondent shall not change the composition of the management of the New Company except that the New Board shall have the power to remove management employees for cause.

i. If the independent Chairman ceases to act or fails to act diligently, a substitute Chairman shall be appointed in the same manner as provided in Paragraph 3.c of this Agreement.

j. Except as required by law, and except to the extent that necessary information is exchanged in the course of evaluating the Acquisition, defending investigations, defending or prosecuting litigation, obtaining legal advice, negotiating agreements to divest assets, or complying with this Agreement or the Consent Order, respondent shall not receive or have access to, or use or continue to use, any Material Confidential Information not in the public domain about the New Company or the activities of the hospital to be operated by the New Board. Nor shall the New Company or the New Board receive or have access to, or use or continue to use, any Material Confidential Information not in the public domain about respondent and relating to respondent's hospitals. Respondent may receive, on a regular basis, aggregate financial information relating to the New Company necessary and essential to allow respondent to prepare United States consolidated financial reports, tax returns, and personnel reports. Any such information that is obtained pursuant to this subparagraph shall be used only for the purposes set forth in this subparagraph. (''Material Confidential Information,'' as used herein, means competitively sensitive or proprietary information not independently known to an entity from sources other than the entity to which the information pertains, and includes, but is not limited to, customer lists, price lists, marketing methods, patents, technologies, processes, or other trade secrets.)

k. Except as permitted by this Agreement, the respondent's New Board member shall not, in his or her capacity as a New Board member, receive Material Confidential Information and shall not disclose any such information received under this Agreement to respondent, or use it to obtain any advantage for respondent. The respondent's New Board member shall enter a confidentiality agreement prohibiting disclosure of Material Confidential Information. The respondent's New Board member shall participate in matters that come before the New Board only for the limited purposes of considering a capital investment or other transaction exceeding $250,000, approving any proposed budget and operating plans, and carrying out respondent's responsibilities under this Agreement and the Consent Order. Except as permitted by this Agreement, the respondent's New Board member shall not participate in any matter, or attempt to influence the votes of the other members of the New Board with respect to matters, that would involve a conflict of interest if respondent and the New Company were separate and independent entities.

l. Any material transaction of the New Company that is out of the ordinary course of business must be approved by a majority vote of the New Board; provided that the New Company shall engage in no transaction, material or otherwise, that is precluded by this Agreement.

m. If necessary, respondent shall provide the New Company with sufficient working capital to operate the Paragraph II Assets at their respective current rates of operation, and to carry out any capital improvement plans for the Paragraph II Assets which have already been approved.

n. Columbia/HCA shall continue to provide the same support services to the Paragraph II Assets, as are being provided to those Assets by Columbia/HCA as of the date this Agreement is signed. Columbia/HCA may charge the Paragraph II assets the same fees, if any, charged by Columbia/HCA for such support services as of the date of this Agreement. Columbia/HCA personnel providing such support services must retain and maintain all Material Confidential Information of the Paragraph II Assets on a confidential basis, and, except as is permitted by this Agreement, such persons shall be prohibited from providing, discussing, exchanging, circulating, or otherwise furnishing any such information to or with any person whose employment involves any of respondent's businesses. Such personnel shall also execute a confidentiality agreement prohibiting the disclosure of any Material Confidential Information of the Paragraph II Assets.

o. During the period commencing on the date this Agreement is effective and terminating on the earlier of (i) twelve (12) months after the date the Consent Order becomes final, or (ii) the date contemplated by subparagraph 2.b (the ''Initial Divestiture Period''), respondent shall make available for use by the New Company funds sufficient to perform all necessary routine maintenance to, and replacements of, the Paragraph II Assets (''normal repair and replacement''). Provided, however, that in any event, respondent shall provide the New Company with such funds as are necessary to maintain the viability, competitiveness, and marketability of such Assets.

p. Columbia/HCA shall circulate, to its management employees responsible for the operation of hospitals (including non-psychiatric facilities) either in the relevant area defined in the Consent Order in this matter, or in the city of Richmond or Henrico or Chesterfield counties in Virginia, a notice of this Hold Separate and Consent Order in the form Attachment A.

q. The New Board shall serve at the cost and expense of Columbia/HCA. Columbia/HCA shall indemnify the New Board against any losses or claims of any kind that might arise out of its involvement under this Hold Separate, except to the extent that such losses or claims result from misfeasance, gross negligence, willful or wanton acts, or bad faith by the New Board directors.

r. The New Board shall have access to and be informed about all companies who inquire about, seek, or propose to buy any Paragraph II Assets.

s. The New Board shall report in writing to the Commission every thirty (30) days concerning the New Board's efforts to accomplish the purposes of this Hold Separate.

4. Should the Commission seek in any proceeding to compel respondent to divest any of the Paragraph II Assets, as provided in the Consent Order, or to seek any other injunctive or equitable relief for any failure

to comply with the Consent Order or this Agreement, or in any way relating to the Acquisition, as defined in the draft complaint, respondent shall not raise any objection based upon the expiration of the applicable Hart-Scott-Rodino Antitrust Improvements Act waiting period or the fact that the Commission has permitted the Acquisition. Respondent also waives all rights to contest the validity of this Agreement.

5. To the extent that this Agreement requires respondent to take, or prohibits respondent from taking, certain actions that otherwise may be required or prohibited by contract, from respondent shall abide by the terms of this Agreement or the Consent Order and shall not assert as a defense such contract requirements in a civil penalty action brought by the Commission to enforce the erms of this Agreement or Consent Order.

6. For the purposes of determining or securing compliance with this Agreement, and subject to any legally recognized privilege, and upon writtens request with reasonable notice to respondent made to its principal office, respondent shall permit any duly authorized representatives of the Commission:

a. Access, during office hours of respondent and in the presence of counsel, to inspect and copy all books, ledgers, accounts, corespondence, memoranda, and all other records and documents in the possession or under the control of the respondent relating to compliance with this Agreement;

b. Upon five (5) days' notice to respondent and without restraint or interference from respondent, to interview officers, directors, or employees of respondent, who may have counsel present, regarding such matters.

7. This Agreement shall not be binding until approved by the Commission.

Attachment A—Notice of Divestiture and Requirement for Confidentiality

Columbia/HCA Healthcare Corporation has entered into a Consent Agreement and Agreement to Hold Separate with the Federal Trade Commission relating to the divestiture of Poplar Springs Hospital in Petersburg, Virginia and certain related assets and businesses (''Poplar Springs''). Until after the FTC's Order becomes final and Poplar Springs is divested, Poplar Springs must be managed and maintained as a separate, ongoing business, independent of all other Columbia/HCA businesses. All competitive information relating to Poplar Springs must be retained and maintained by the persons involved in the operation of Poplar Springs on a confidential basis, and such persons shall be prohibited from providing, discussing, exchanging circulating, or otherwise furnishing any such information to or with any other person whose employment involves any other Columbia/HCA business. Similarly, all such persons involved in Columbia/HCA shall be prohibited from providing, discussing, exchanging, circulating, or otherwise furnishing any such information to or with any other person whose employment involves Poplar Springs.

Any violation of the Consent Agreement or the Agreement to Hold Separate, incorporated by reference as part of the Consent Order, may subject Columbia/HCA to civil penalties and other relief as provided by law.

Analysis of Proposed Consent Order To Aid Public Comment, Columbia/HCA Healthcare Corp., FTC File No. 951–0044

The Federal Trade Commission has accepted, subject to final approval, a proposed consent order from Columbia/HCA Healthcare Corp. (''Columbia/HCA''). The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The proposed consent order would settle charges by the Federal Trade Commission that Columbia/HCA's proposed acquisition of John Randolph Medical Center (''John Randolph'') from the Hopewell Hospital Authority may substantially lessen competition in the market for psychiatric hospital services in the ''Tri-Cities'' area of south central Virginia (which includes Hopewell, Petersburg, Colonial Heights, and other nearby communities). Because the Commission has not charged that the proposed acquisition would endanger competition with respect to non-psychiatric hospital services offered by John Randolph, the scope of the proposed consent order is limited to psychiatric services. (Columbia/HCA does not operate any hospitals in the Tri-Cities area that provide non-psychiatric hospital services.)

Columbia/HCA operates over 300 hospitals nationwide. Its only hospital in the Tri-Cities area is Poplar Springs Hospital, a 100-bed hospital in Petersburg, Virginia specializing in psychiatric care. John Randolph is a 150-bed general acute care hospital in Hopewell, Virginia, about ten miles northeast of Petersburg. It is owned and operated by the Hopewell Hospital Authority. John Randolph provides psychiatric hospital services in its 34-bed psychiatric unit, as well as a variety of medical and surgical services in other departments of the hospital. The complaint accompanying the consent order alleges that the proposed combination of Columbia/HCA's Poplar Springs with John Randolph may substantially lessen competition in the relevant psychiatric hospital services market, and would violate Section 7 of the Clayton Act and Section 5 of the Federal Trade Commission Act.

The complaint defines psychiatric hospital services as those inpatient services provided by psychiatric hospitals, or psychiatric units of non-psychiatric hospitals, for the psychiatric diagnosis, treatment, and care of persons suffering from acute mental illnesses or emotional disturbance, or alcohol or drug abuse. The complaint distinguishes psychiatric hospital services from outpatient psychiatric care, as well as from long-term treatment of chronic mental illnesses (such as that provided by Central State Hospital, a state mental hospital in Petersburg, which is not included in the relevant product market alleged in the complaint). According to the complaint, even though such alternatives are much less expensive than acute inpatient psychiatric hospital care, they cannot reasonably meet the mental health needs of the patients who receive inpatient care at the psychiatric hospitals and hospital units in the Tri-Cities.

The complaint defines the relevant geographic market as the Tri-Cities area. Columbia/HCA and John Randolph are two of only three competing providers of psychiatric hospital services in that area. The only other provider of psychiatric hospital services in the Tri-Cities area is Southside Regional Medical Center, a general acute care hospital in Petersburg, Virginia, which has a 31-bed psychiatric unit.

As stated in the complaint, the proposed acquisition would eliminate competition between Columbia/HCA and John Randolph, and significantly increase the already high level of concentration for psychiatric hospital services in the Tri-Cities area. The complaint alleges that the proposed acquisition would eliminate the psychiatric unit at John Randolph as a substantial, independent competitive force. The complaint also alleges that the proposed merger would increase the market share of Columbia/HCA, the leading provider of psychiatric hospital services in the Tri-Cities area, from over 50% to over 70%. The complaint further alleges that, as measured by the Herfindahl-Hirschman Index (''HHI''), market concentration would increase more than 2400 points to a post-acquisition level of over 6400, on a scale of 0 to 10,000. (The HHI is a measure of market concentration used by the Federal antitrust enforcement agencies to estimate, in conjunction with information on other market factors, the likelihood that a merger would endanger competition.) As explained in the 1992 Horizontal Merger Guidelines issued by the Commission and the Department of Justice (57 Fed. Reg. 41552), the Federal antitrust enforcement agencies consider markets with HHI levels above 1800 to be ''highly concentrated.'' Where the post-merger HHI would exceed 1800, the agencies presume that a merger producing an increase in the HHI of more than 100 points is likely to significantly lessen competition (unless factors other than market concentration indicate that the merger presents no significant threat to competition).

According to the complaint, entry into the Tri-Cities area by new psychiatric hospital facilities is unlikely to prevent or remedy any anticompetitive price increases or other effects resulting from the acquisition. Certificate of need approval is required from a state regulatory agency for new psychiatric hospital or unit in Virginia. Such approval would be difficult to obtain in the Tri-Cities area, given that there is (and likely will be for the foreseeable future) substantially more psychiatric hospital bed capacity in the Tri-Cities health planning district than the state believes is sufficient to meet the mental health needs of the residents of the Tri-Cities area.

The complaint alleges that the proposed acquisition may: substantially lessen competition for psychiatric hospital services

in the Tri-Cities area; result in less favorable prices and other terms for health plans that contract with psychiatric hospital facilities in the Tri-Cities area; increase the possibility of collusion or interdependent coordination by the remaining market competitors; and deny patients, physicians, third-party payers, and other consumers of psychiatric hospital services, the benefits of free and open competition based on price, quality, and service.

The consent order, if issued in final form by the Commission, would require Columbia/HCA to divest Poplar Springs Hospital and related assets. Columbia/HCA is permitted to carry out its proposed acquisition of John Randolph. The consent order would ensure the continued operation of Poplar Springs as a viable psychiatric hospital facility independent of Columbia/HCA and John Randolph, and remedy the lessening of competition for psychiatric hospital services resulting from Columbia/HCA's acquisition of John Randolph.

Under the terms of the proposed order, Columbia/HCA must divest Poplar Springs to an acquirer and in a manner approved by the Commission. The divestiture must be completed within twelve months of the date the order becomes final; otherwise, Columbia/HCA will consent to the appointment of a trustee, who will have twelve additional months to effect the divestiture. (Paragraphs II and III)

A Hold Separate Agreement executed in conjunction with the consent agreement requires Columbia/HCA to maintain Poplar Springs separate from its other operations until the completion of the divestiture, or as otherwise specified. To assure the complete independence and viability of Poplar Springs Hospital, the Hold Separate Agreement requires Columbia/HCA to transfer all ownership and control of Poplar Springs Hospital to a separate legal entity, and to assure that no competitive information is exchanged between Columbia/HCA and this entity. Under the Hold Separate Agreement, Columbia/HCA may not exercise any direction, control, or influence over this entity, except as necessary to assure compliance with the Consent Order and the Hold Separate Agreement and the continued viability, competitiveness, and marketability of Poplar Springs.

For ten years after the order is made final, the proposed consent order would prohibit Columbia/HCA from combining (through purchase, sale, lease, or otherwise) its psychiatric hospital facility in the Tri-Cities area with any other psychiatric hospital facility in that area, without prior notice to the Federal Trade Commission. Columbia/HCA must provide such notice in accordance with procedures similar to those governing premerger notifications required by Section 7A of the Clayton Act, 15 U.S.C. § 18a (unless the merger is already subject to Section 7A's requirements, in which case no notice is necessary over and above that provided pursuant to Section 7A). The order provision supplements Section 7A, to ensure that the Commission receives advance notice of potentially significantly Columbia/HCA mergers in the relevant market, and thereby give the Commission an opportunity to block any such merger if it can demonstrate that the merger may substantially lessen competition. The proposed order contains certain limited exceptions to the prior notification requirement for transactions which are unlikely to substantially lessen competition, such as for small transactions under $1 million. (Paragraph IV)

The proposed consent order also contains provisions concerning its continued application to future owners of Columbia/HCA psychiatric hospital facilities in the Tri-Cities area. The acquirer of Poplar Springs, pursuant to the divestiture called for by the order, must agree to not transfer the hospital, for ten years from the date of the order, without prior notice to the Commission, to any person already operating a psychiatric hospital facility in the Tri-Cities area (Paragraph II.F.). In addition, the order would prohibit Columbia/HCA for ten years from transferring a psychiatric hospital facility in the Tri-Cities area other than Poplar Springs (*e.g.*, the John Randolph psychiatric facility it is to acquire) to another person, unless the acquiring person first files with the Commission an agreement to be bound by the order (Paragraph V).

The purpose of this analysis is to invite public comment concerning the proposed order, and to assist the Commission in its determination of whether to make the order final. This analysis is not intended to constitute an official interpretation of the agreement or to modify its terms in any way.

The agreement is for settlement purposes only and does not constitute an admission by Columbia/HCA that its proposed acquisition of John Randolph Medical Center would violate the law, as alleged in the Commission's complaint.

Donald S. Clark,

Secretary.

[FR Doc. 95–22580 Filed 9–11–95; 8:45 am]

BILLING CODE 6750–01–M

[File No. 951–0037]

Phillips Petroleum Company and Enron Corporation.; Consent Agreement With Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require the Houston, Texas-based Enron Corporation not to sell 830 miles of natural gas pipe and related assets within the Texas and Oklahoma Panhandle region to the Bartlesville, Oklahoma-based Phillips Petroleum Company.

DATES: Comments must be received on or before November 13, 1995.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Ronald B. Rowe, Bureau of Competition, Federal Trade Commission, S–2602, 6th Street & Pennsylvania Ave., NW., Washington, DC 20580, (202) 326–2610.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval.

The Federal Trade Commission (''Commission''), having initiated an investigation of the proposed acquisition by Phillips Petroleum Company (''Phillips''), through its subsidiary GPM Gas Corporation (''GPM''), of the outstanding voting securities of Enron Anadarko Gathering Company and Transwestern Anadarko Gathering Company, two subsidiaries of Enron Corp. (''Enron''), that will own certain gas gathering assets currently owned by Transwestern Pipeline Company (''Transwestern'') and Northern Natural Gas Company (''Northern Natural''), two other subsidiaries of Enron, and it now appearing that Enron and Phillips, hereinafter sometimes referred to as ''Proposed Respondents,'' are willing to enter into an agreement containing an Order to cease and desist engaging in certain activities, and providing for other relief:

It is hereby agreed by and between Proposed Respondents, by their duly authorized officers and attorneys, and counsel for the Commission that:

1. Proposed Respondent Phillips is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business at Phillips Building, Bartlesville, Oklahoma 74004.

2. Proposed Respondent Enron is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business at 1400 Smith Street, Houston, Texas 77002.

3. Proposed Respondents admit all the jurisdictional facts set forth in the draft complaint.

4. Proposed Respondents waive:

a. any further procedural steps;

b. the requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

c. all rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered pursuant to this agreement; and

d. any claim under the Equal Access to Justice Act.

5. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If the agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the Proposed Respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

6. This agreement is for settlement purposes only and does not constitute an admission by Proposed Respondents that the law has been violated as alleged in the draft of complaint, or that the facts as alleged in the draft complaint, other than jurisdictional facts, are true.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to the Proposed Respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint and its decision containing the following Order to cease and desist in disposition of the proceeding and (2) make information public with respect thereto. When so entered, the Order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The Order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to Order to Proposed Respondents' addresses as stated in this agreement shall constitute service. Proposed Respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the Order, and no agreement, understanding, representation, or interpretation not contained in the Order or the agreement may be used to vary or contradict the terms of the Order.

8. Proposed Respondents have read the proposed complaint and Order contemplated hereby. Proposed Respondents understand that once the Order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the Order. Proposed Respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the Order after it becomes final.

Order

I

It is ordered that, as used in this Order, the following definitions shall apply:

A. ''Phillips'' means Phillips Petroleum Company, its directors, officers, employees, agents, and representatives, predecessors, successors, and assigns, its subsidiaries, divisions, groups, and affiliates controlled by Phillips, and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.

B. ''Enron'' means Enron Corp., its directors, officers, employees, agents, and representatives, predecessors, successors, and assigns, its subsidiaries, divisions, groups, and affiliates controlled by Enron, and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.

C. ''Respondent'' or ''Respondents'' means Phillips and Enron, collectively and individually.

D. ''Maxus'' means Maxus Energy Corporation, its predecessors, successors, and assigns, subsidiaries, divisions, and groups, and affiliates controlled by Maxus Energy Corporation.

E. The ''Acquisition'' means the proposed acquisition by Phillips of the outstanding voting securities of Enron Anadarko Gathering Company and Transwestern Anadarko Gathering Company, which will own certain gas gathering assets currently owned by Transwestern Pipeline Company and Northern Natural Gas Company, two subsidiaries of Enron, pursuant to the stock purchase agreements executed on November 15, 1994, by Phillips and Enron as subsequently modified and amended.

F. ''Gas gathering'' means pipeline transportation, for oneself or other persons, of natural gas over any part or all of the distance between a well and a gas transmission pipeline or gas processing plant.

G. ''Person'' means any natural person, partnership, corporation, company, association, trust, joint venture or other business or legal entity, including any governmental agency.

H. ''Related Person'' means a person controlled by, controlling, or under the common control with, another person.

I. ''Relevant Geographic Area'' means the Texas counties of Hansford, Ochiltree, and Lipscomb and all portions of Beaver County, Oklahoma, within ten miles of the Texas border.

J. ''Schedule A assets'' means the whole and any part of the assets listed in Schedule A of this Order (including, but not limited to, the assets listed in annex 1 and annex 2).

K. ''Commission'' means the Federal Trade Commission.

II

It is further ordered that Enron shall not sell, transfer, or otherwise convey, directly or indirectly, the Schedule A assets, or any stock, share capital, equity, or other interest in any person controlling the Schedule A assets, to Phillips in connection with the Acquisition; and, within thirty (30) days after this Order becomes final, Enron shall provide notice of the requirements of this Order to the Federal Energy Regulatory Commission.

III

It is further ordered that Phillips shall not acquire, directly or indirectly, any stock, share capital, equity, or other interest in any person controlling the Schedule A assets in connection with the Acquisition.

IV

It is further ordered that, for a period of ten (10) years from the date this Order becomes final, Phillips shall not, without prior notification to the Commission, directly or indirectly:

A. Acquire the Schedule A assets;

B. Acquire any stock, share capital, equity, or other interest in any person engaged in gas gathering within the Relevant Geographic Area at any time within the two years preceding such acquisition, provided, however, that an acquisition of securities will be exempt from the requirements of this paragraph (IV.B) if after the acquisition Phillips will hold cumulatively no more than two (2) percent of the outstanding shares of any class of security of such person; and provided further, that this Paragraph (IV.B) shall not apply to the acquisition of any interest in a person that is not at the time of the acquisition engaged in gas gathering within the Relevant Geographic Area due to the sale within the preceding two years of all assets used for gas gathering within the Relevant Geographic Area to another

party who intended to operate said assets for gas gathering within the Relevant Geographic Area; or

C. Enter into any agreements or other arrangements with any person or with two or more related persons to obtain, within any 18 month period, direct or indirect ownership, management, or control of more than five miles of pipeline previously used for gas gathering and suitable for use for gas gathering within the Relevant Geographic Area.

V

It is further ordered that, for a period of ten (10) years from the date this Order becomes final, Enron shall not, without prior notification to the Commission, directly or indirectly:

A. Transfer Schedule A assets to Phillips or Maxus;

B. Transfer any stock, share capital, equity, or other interest in any entity controlling the Schedule A assets to Phillips or Maxus; or

C. Enter into any agreement or other arrangement to transfer direct or indirect ownership, management, or control of any of the Schedule A assets to Phillips or Maxus.

VI

It is furthered ordered that the prior notifications required by Paragraphs IV and V of this Order shall be given on the Notification and Report Form set forth in the Appendix to Part 803 of Title 16 of the Code of Federal Regulations as amended (hereinafter referred to as ''the Notification''), and shall be prepared and transmitted in accordance with the requirements of that part, except that no filing fee will be required for any such notification, notification shall be filed with the Secretary of the Commission, notification need not be made to the United States Department of Justice, and notification is required only of Respondents and not of any other party to the transaction. In lieu of furnishing (1) documents filed with the Securities and Exchange Commission, (2) annual reports, (3) annual audit reports, (4) regularly prepared balance sheets, or (5) Standard Industrial Code (SIC) information in response to certain items in the Appendix to Part 803 of Title 16 of the Code of Federal Regulations, Phillips shall provide a map showing the location of the pipeline whose acquisition is proposed and other pipelines used for gas gathering in the Relevant Geographic Area and a statement showing the quantity of gas that flowed through pipeline whose acquisition is proposed in the previous 12 month period. Respondents shall provide the Notification to the Commission at least thirty days prior to consummating any such transaction (hereinafter referred to as the ''first waiting period''), If, within the first waiting period, representatives of the Commission make a written request for additional information, Respondents shall not consummate the transaction until twenty days after substantially complying with such request for additional information. Early termination of the waiting periods in this paragraph may be requested and, where appropriate, granted by letter from the Bureau of Competition.

Provided, however, that prior notification shall not be required by Paragraphs IV and V of this Order for a transaction for which notification is required to be made, and has been made, pursuant to Section 7A of the Clayton Act, 15 U.S.C. § 18a.

VII

It is further ordered that:

A. Within sixty (60) days after the date this Order becomes final, each Respondent shall file a verified written report with the Commission setting forth in detail the manner and form in which it has complied and is complying with this Order; and

B. One (i) year from the date this Order becomes final, annually for the next nine (9) years on the anniversary of the date this Order becomes final, and at such other times as the Commission may require, each Respondent shall file a verified written report with the Commission setting forth in detail the manner and form in which it has complied and is complying with this Order. Provided, however, that if Enron sells all of the Schedule A assets, it will no longer be required to file any further written reports with the Commission.

VIII

It is further ordered that each Respondent shall notify the Commission at least thirty (30) days prior to any proposed change in such Respondent such as dissolution, assignment, sale resulting in the emergence of a successor corporation, or the creation or dissolution of subsidiaries or any other change that may affect compliance obligations arising out of the Order.

IX

It is further ordered that, for the purpose of determining or securing compliance with this Order, and subject to any legally recognized privilege, upon written request and on reasonable notice to such Respondent, each Respondent shall permit any duly authorized representative of the Commission:

A. Access, during office hours and in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such Respondent relating to any matters contained in this Order; and

B. Without restraint or interference from it, to interview officers, directors, or employees of such Respondent, who may have counsel present, relating to any matters contained in this order.

Signed this _____ day of _____, 19_____.

Schedule A

Transwestern System 3—Catesby/ Ivanhoe

Beaver County, OK
Ellis County, OK

Assets: All Transwestern-owned facilities located upstream of the discharge side of the Catesby Compressor unit. Includes approximately 45.5 miles of pipe and the Catesby compressor #745, 422 horsepower. Material assets are listed in Annex 1 for Transwestern system 3.

Transwestern System 4—Frass Como

Lipscomb County, TX
Beaver County, OK

Assets: All Transwestern-owned facilities located upstream of, but not including, the side/hot-tap valve that connects the Frass Como Lateral to the 12 inch Lipscomb-Mocaine Lateral, including the Frass Como compressor station. Includes approximately 55.1 miles of pipe. Material assets are listed in Annex 1 for Transwestern system 4.

Transwestern System 5—Follett

Lipscomb County, TX

Assets: All Transwestern-owned facilities located upstream of, but not including, the side/hot-tap valve that connects the 4 inch Follett Lateral to the 12 inch Lipscomb-Mocaine Lateral. Includes approximately 8.3 miles of pipe. Material assets are listed in Annex 1 for Transwestern system 5.

Transwestern System 7—Kiowa Creek

Lipscomb County, TX

Assets: All Transwestern-owned facilities located upstream of, but not including, the side/hot-tap valve that connects the 6 inch Kiowa Creek Lateral and the 8 inch Kiowa Creek Loop to the 12 inch Lipscomb-Mocaine Lateral, including the Kiowa Creek #2 compressor station. Includes approximately 77 miles of pipe and three compressor units: Kiowa Creek #2 Compressor #865, 1,078 horsepower; Kiowa Creek #1 Compressor #828, 1,078

horsepower; and E. Lipscomb Compressor #858, 531 horsepower. Material assets are listed in Annex 1 for Transwestern system 7.

Transwestern System 8—Wolf Creek

Lipscomb County, TX
Ellis County, OK

Assets: All Transwestern-owned facilities located upstream of, but not including, the side/hot-tap valve that connects the 6 inch Wolf Creek Lateral to the 12 inch Lipscomb-Mocaine Lateral. Includes approximately 45.2 miles of pipe and the Wolf Creek compressors #755 and #853, 1,470 combined horsepower. Material assets are listed in Annex 1 for Transwestern system 8.

Transwestern System 13—Waka/ Perryton

Ochiltree County, TX

Assets: All Transwestern-owned facilities located upstream of and including the pig receiver for the 8 inch Perryton lateral, located on the upstream side of and to the NE of the Waka compressor station. Includes approximately 77.8 miles of pipe and the Perryton Transwestern compressor #827, 779 horsepower. Material assets are listed in Annex 1 for Transwestern system 13.

Transwestern System 14—Gray rock

Ochiltree County, TX
Lipscomb County, TX

Assets: All Transwestern-owned facilities located upstream of, but not including, the 6 inch pig launcher on the discharge side of the Gray Rock compressor station. Includes approximately 43.3 miles of pipe and the Gray Rock compressor #826, 810 horsepower. Material assets are listed in Annex 1 for Transwestern system 14.

Transwestern System 20—Brillhart

Hansford County, TX

Assets: All Transwestern-owned facilities located upstream of, but not including, the side/hot-tap valve that connects the 8 inch Brillhart Lateral to the 10 inch Cactus-Hugoton Lateral. Includes approximately 78.5 miles of pipe and two compressors: Brillhart #748, 708 horsepower; and Brillhart #796, 785 horsepower. Material assets are listed in Annex 1 for Transwestern system 20.

Transwestern System 21—John Creek

Hansford County, TX
Ochiltree County, TX
Hutchinson County, TX
Roberts County, TX

Assets: All Transwestern-owned facilities located upstream of, but not including, the side/hot-tap valve that connects the 6 inch John Creek Lateral to the 12 inch Cactus-Hugoton Lateral. Includes approximately 31 miles of pipe and the John Creek compressor #747, 537 horsepower. Material assets are listed in Annex 1 for Transwestern system 21.

Northern Natural System 35—Spearman System—North

Hansford County, TX

Assets: The following four sections: (1) Approximately 6.3 miles of 6 inch and 2.0 miles of 4 inch Northern-owned gathering lines, upstream of where the 6 inch TG385 connects to the 8 inch TG24001 in the northwest quarter of Section 42, Block 1, Washington County RR Survey. (2) Approximately 6.5 miles of 4 inch Northern-owned gathering lines, upstream of the side valve on the 10 inch TG24001 in the northeast quarter of Section 30, Block 1, Cherokee Iron Furnace CO Survey. (3) The Buckner A1 wellhead facilities and approximately 3.4 miles of 4 inch Northern-owned gathering lines from the Buckner A1 well in Section 20 to the side valve on the 10 inch TG24001 in Section 27, Block 1, Cherokee Iron Furnace Co Survey. (4) Approximately 3.5 miles of 8 inch, 3.8 miles of 6 inch, and 10 miles of 4 inch Northern-owned gathering lines, upstream of where the 6 inch TG247 and the 8 inch TG246 connects to the 12 inch TG24001 near the East Section Line of Section 7, Block 2, SA&MG RR Survey. Material assets are listed in Annex 2 for Northern Natural system 35.

Northern Natural System 35—Spearman System—East

Hansford County, TX
Hutchinson County, TX
Roberts County, TX

Assets: The following two sections: (1) The Brainard Lateral consisting of approximately 1.9 miles of 8 inch, 5.8 miles of 6 inch, and 19.2 miles of 4 inch Northern-owned gathering lines, upstream of a side valve where the 8 inch TG335 connects to the 26 inch TG24001 in Section 8, Block H&GN Survey. (2) The East Leg consisting of approximately 11.1 miles of 10 inch, 19.5 miles of 8 inch, 19.0 miles of 6 inch, and 49.6 miles of 4 inch gathering lines, upstream of where 10 inch TG301 connects to the suction of Northern's Spearman Compressor Station. Material assets are listed in Annex 2 for Northern Natural system 35.

Northern Natural System 37—Fuller System

Hansford County, TX
Sherman County, TX
Hutchinson County, TX

Assets: The following two sections: (1) The Hansford County No. 1 System consisting of approximately one-half mile of 2 inch, 5 miles of 8 inch, 3 miles of 6 inch, and 11 miles of 4 inch gathering lines, upstream of the suction of Northern's Hansford County No. 1 compressor station. (2) The Hutchinson County No. 2 system consisting of approximately 5 miles of 6 inch and 5 miles of 4 inch gathering lines, upstream of the suction of Northern's Hutchinson County No. 2 compressor station. Material assets are listed in Annex 2 for Northern Natural system 37.

Northern Natural System 79—Perryton System

Ochiltree County, TX
Beaver County, OK

Assets: The Northern-owned facilities upstream of the suction of Northern's Perryton Compressor Station. The facilities consist of approximately one quarter mile of 2 inch, 89 miles of 4 inch, 58 miles of 6 inch, 23 miles of 8 inch, 4 miles of 10 inch, and 10 miles of 16 inch gathering lines. Material assets are listed in Annex 2 for Northern Natural system 79.

ANNEX 1 TO SCHEDULE A

[Transwestern Gathering Company]

S	Line seg	Description	WH	Comp	Line	Meter	Comp. H/P	Pipe diameter	Pipe length	Pipe 2 diameter	Pipe 2 length
3	CA–1	4″ SHEPHERD #1/L E MAYER #1 LAT.		X		0	0	6.6	31680.	0.0	0.00
3	CA–1	MTR STA SHL MAYER WL1.	X			42800	0	4.5	100.	0.0	0.00

ANNEX 1 TO SCHEDULE A—Continued

[Transwestern Gathering Company]

S	Line seg	Description	WH	Comp	Line	Meter	Comp. H/P	Pipe diameter	Pipe length	Pipe 2 diameter	Pipe 2 length
3	CA–1	MTR STA SHL SHEPRD WL1.	X			42810	0	4.5	100.	0.0	0.00
3	CA–1–01	IRWIN #1–20 WL LN	X			41610	0	4.5	422.	0.0	0.00
3	CA–1–01	SHELL-TUBB #1–30 WL LN.	X			41630	0	4.5	400.	0.0	0.00
3	CA–1–01	PEETOOM #1–29 WELL LINE.	X			41660	0	4.5	5280.	0.0	0.00
3	CA–1–02	SHELL-OHEARN #1–32 WELL.	X			41620	0	4.5	6864.	0.0	0.00
3	CA–1–02	SHELL-WHITE #1–31 WELL.	X			41640	0	4.5	400.	0.0	0.00
3	CA–1–03	WHITE B #1–5 WELL LINE.	X			42830	0	4.5	14256.	0.0	0.00
3	CA–1–03	PHIL-DRAKE #1–6 WEL LN.	X			42840	0	4.5	106.	0.0	0.00
3	CA–1–04	PEARSON #1 4 LN & EQ	X			41590	0	0.0	0.	0.0	0.00
3	CA–1–04	CONN KELLN 11–1	X			41750	0	0.0	0.	0.0	0.00
3	CA–1–04	SWENN #1 4 LN & EQ ...	X			42870	0	4.5	5808.	0.0	0.00
3	CA–1–04	MESA PETROLEUM CO—#1 PIERSALL.	X			43090	0	0.0	0.	0.0	0.00
3	CA–1–05	CONN SHELL—#2–31 WHITE.	X			41730	0	4.5	2600.	0.0	0.00
3	CA–1–05	CONN CNG-STATE UNIT #1.	X			43210	0	0.0	0.	0.0	0.00
3	CA–2	CONNMEDALLION PETR-WHITE A#1&2.	X			41021	0	0.0	0.	0.0	0.00
3	CA–2	STATE #1–36	X			41690	0	0.0	0.	0.0	0.00
3	CA–2	WHITE A #1–1 WELL LN	X			42820	0	4.5	53.	0.0	0.00
3	VH–1	12″ IVANHOE & CATESBY LAT.			X	0	0	12.7	34320.	0.0	0.00
3	VH–1	CONNMEWBOURNE OIL #1–24 WYNN.	X			41911	0	0.0	0.	0.0	0.00
3	VH–1	TW #745 IVANHOE/ CATESBY COMP.		X		0	422	0.0	0.	0.0	0.00
3	VH–1–01	BERYL JET #1–14 WL LN.	X			42690	0	4.5	158.	0.0	0.00
3	VH–1–04	CONN BURKHART #1–15 BEDELL INOIN FL.	X			41910	0	0.0	0.	0.0	0.00
3	VH–2–01	CONNMARLIN OIL #1 HALLIBURTON.	X			41740	0	4.5	2050.	0.0	0.00
3	VH–2–01	FOX #1 WL LN	X			41970	0	0.0	0.	0.0	0.00
3	VH–2–01	BOCKELMAN #1–17 WL LN.	X			42760	0	4.5	106.	0.0	0.00
3	VH–2–02	MTR STA UNION DYCHE WL.	X			41020	0	4.5	4852.	0.0	0.00
3	VH–2–03	4″ O'HARE W/KAISER FRANCIS-REDELSPERGR#1.	X			40301	0	0.0	0.	0.0	0.00
3	VH–2–03	OHAIR #1–40 TIN WL LN	X			42770	0	4.5	5280.	0.0	0.00
3	VH–2/3	10″ CATESBY EXTEN-SION.			X	0	0	10.7	44880.	0.0	0.00
3	VH–3	MCCLURE #1–13 WELL LINE.	X			41680	0	4.5	400.	0.0	0.00
3	VH–3–01	SUE HILL #1	X			41700	0	4.5	1750.	0.0	0.00
4	FC–1	CONN TEX OKG—#2 PINKARD "B".	X			38980	0	0.0	0.	0.0	0.00
4	FC–1	FRASS-COMO FLD TW #746.		X		0	0	0.0	0.	0.0	0.00
4	FC–1/2	8″ COMO J FRASS FLD LAT.			X	0	0	8.6	52800.	0.0	0.00
4	FC–2	DAROVZET SALES MTR STA.	X			20	0	0.0	0.	0.0	0.00
4	FC–2–02	MTR STA HUM-FRASS #B–1.	X			3651	0	4.5	3980.	0.0	0.00
4	FC–2–02	MTR STA HBL-FRASS WL–1.	X			3653	0	4.5	8220.	0.0	0.00
4	FC–2–03	CONN NAT GAS ANADARKO #1–26 DEPEW.	X			43340	0	4.5	10500.	0.0	0.00

ANNEX 1 TO SCHEDULE A—Continued

[Transwestern Gathering Company]

S	Line seg	Description	WH	Comp	Line	Meter	Comp. H/P	Pipe diameter	Pipe length	Pipe 2 diameter	Pipe 2 length
4	FC–3	8″ COMO & FRASS FLD LAT.			X	0	0	8.6	25080.	0.0	0.00
4	FC–3–01	4″ HOWARD/ MAHAFFEY/MIER/ANDERSON.			X	0	0	6.6	13200.	0.0	0.00
4	FC–3–01	MTR STA CSO VICKERS WL.	X			42530	0	4.5	100.	0.0	0.00
4	FC–3–2	PHILLIPS EXCHANGE 3 SIDE VLVS.	X			952	0	0.0	0.	0.0	0.00
4	FC–5–02	CONN FALCON-CLENNEY #1.	X			40390	0	4.5	25.	0.0	0.00
4	FC–5–02	CONN FALCON-SCHUSTER #1.	X			40400	0	4.5	20600.	0.0	0.00
4	FC–5–05	CONN FALCON-CLENNEY #2.	X			40430	0	4.5	400.	0.0	0.00
4	FC–5–07	CONN NAT GAS ANDRKO #1–2 DICK BVR.	X			40460	0	4.5	8037.	2.3	136.00
4	FC–5–08	CONNMEWBOURNE #1 BARNES 14 BEAVER.	X			40520	0	4.5	2540.	0.0	0.00
5	FT–1	LFR B&T–R #1 TO LIP–M.			X	0	0	4.5	29040.	0.0	0.00
5	FT–1	CONN SAM REGER #1 ..	X			36100	0	4.5	100.	0.0	0.00
5	FT–1–01	CONN COTTON #1 KRAFT.	X			37800	0	4.5	3600.	0.0	0.00
5	FT–1–02	FARM TAP MERLIN LAUBHAM.	X			3110	0	0.0	0.	0.0	0.00
5	FT–1–02	FARM TAP-RUSSELL SINER.	X			3490	0	0.0	0.	0.0	0.00
5	FT–1–03	CONN JACK G JONES-#1 MASON.	X			38030	0	0.0	0.	0.0	0.00
5	FT–1–03	CONN COTTON-#1 LAUBHAN.	X			38480	0	4.5	9800.	0.0	0.00
5	FT–2–04	CONN LAUBHAN UNIT A #1.	X			36220	0	4.5	50	0.0	0.00
7	EL–1	4″ E. LIPSCOMB FLD LAT.			X	0	0	4.5	22176.	4.0	480.00
7	EL–1	LINE PARKER 1 4 IN	X			35710	0	4.5	272.	0.0	0.00
7	EL–1	LINE SHULTZ C–I 4 IN ..	X			35790	0	4.5	272.	0.0	0.00
7	EL–1	EAST LIPS TW #858		X		0	500	0.0	0.	0.0	0.0
7	EL–1–01	LINE TYSON A–1 4 IN ...	X			35680	0	4.5	4646.	0.0	0.0
7	EL–1–01	LINE SHULTZ 2–5625 4 IN.	X			35760	0	4.5	4176.	0.0	0.00
7	EL–1–02	CONN HUMBLE–1 W M SCHULTZ UNIT.	X			35932	0	4.5	5280.	0.0	0.00
7	EL–1–02	CONN 1 SCHULTZ	X			35940	0	4.5	2200.	0.0	0.00
7	KC–1	6″ LIBSCOMB F/PIPER #2 LIPSCOMB LAT.			X	0	0	6.6	13781.	0.0	0.00
7	KC–1	LINE PIPER 2 6 IN	X			35730	0	4.5	272.	0.0	0.00
7	KC–1	LINE SHULTZ B–2 6 IN ..	X			35740	0	4.5	272.	0.0	0.0
7	KC–1	KIOWA CREEK #1 TW #828.		X		0	1100	0.0	0.	0.0	0.00
7	KC–1–02	4″ LIPSCOMB F/YAUCK/ DUKE/SHULTZ B.			X	0	0	4.5	12619.	0.0	0.00
7	KC–1–02–01	NATOMAS #1 YAUCK TW #855.		X		0	42	0.0	0.	0.0	0.00
7	KC–1–03	CONN SCRATH OIL-PIPER #689.	X			9750	0	0.0	0.	0.0	0.00
7	KC–1–03	CONN SCARTH PETR-#601–1 PIPER.	X			38360	0	4.5	300.	0.0	0.00
7	KC–1–03	CONN SCARTH-PIPER 600-1.	X			38400	0	0.0	0.	0.0	0.00
7	KC–1–03	CONN SCARTH-PIPER 601–2.	X			38410	0	0.0	0.	0.0	0.00
7	KC–1–03	CONNMAY PETRO PIPER RNCH #1 ZIPSCO.	X			55120	0	0.0	0.	0.0	0.00
7	KC–1–05	MTR RUN-NEWBORURNE-SCHULTZ #1.	X			38160	0	2.3	30.	0.0	0.00

ANNEX 1 TO SCHEDULE A—Continued

[Transwestern Gathering Company]

S	Line seg	Description	WH	Comp	Line	Meter	Comp. H/P	Pipe diameter	Pipe length	Pipe 2 diameter	Pipe 2 length
7	KC–1–06	CONN NAT GAS-ANADARKO #1–544 OWENS.	X			38890	0	4.5	2600.	0.0	0.00
7	KC–1–06	CONN EXXON-#7 OLA O PIPER.	X			38900	0	4.5	6000.	0.0	0.00
7	KC–1–07	CONNMAY PET-WM SCHULTZ #1.	X			55130	0	0.0	0.	0.0	0.00
7	KC–1–08	CONNMEWBOURNE #1 DUCE "781".	X			55230	0	4.5	2882.	2.3	83.00
7	KC–1–08	CONN MEWBOURNE #1 SCHULTZ "761".	X			55240	0	4.5	873.	2.3	152.00
7	KC–1/2/3	6" KIOWA CREEK LAT ..			X	0	0	6.6	66264.	0.0	0.00
7	KC–1/2/3 / KC–3–5/6.	EXT KIOWA CREEK T/ LEAR PET 6" LINE.			X	0	0	6.6	27262.	6.6	151.00
7	KC–2	CONN OLA #1	X			36384	0	6.0	1750.	0.0	0.00
7	KC–2	KIOWA CREEK STA#2–TW #865.		X		0	1050	0.0	0.	0.0	0.00
7	KC–2–01	MTR STA APAH LAURE WL1.	X			36340	0	4.5	13200.	0.0	0.00
7	KC–2–03	CON BRADFORD FD CSG HD.	X			36320	0	4.5	106.	0.0	0.00
7	KC–2–03	PURDOM #1 4LN & EQ ..	X			37190	0	4.5	422.	0.0	0.00
7	KC–2–03	CONN FALCON-PURDOM UNIT #1.	X			38340	0	0.0	0.	0.0	0.00
7	KC–2–04	CONN COTTON PETR–1–A–PIPER.	X			36720	0	4.0	1000.	0.0	0.00
7	KC–2–206	CONN COTTON PETR–1 BRADFORD "B".			x	0	0	4.5	3100.	0.0	0.00
7	KC–2–06	CON UNAPACHE-BRADFOD #1.	X			36300	0	6.6	10560.	0.0	0.00
7	KC–2–06	CONN DIAMOND-#3 688 OLA 0 PIPER.	X			37741	0	4.5	4500	0.0	0.00
7	KC–2–06	CON COTTON-BRAD-FORD #2.	X			38320	0	0.0	0.	0.0	0.00
7	KC–2–07	PAN PET HLTON #1 WL LN.	X			36830	0	4.5	3000.	0.0	0.00
7	KC–2–07	CONN COTTON PETR-1 FAIR.	X			36880	0	4.5	4400.	0.0	0.00
7	KC–2–10	CON APACHE BRAD-FORD #3.	X			33652	0	0.0	0.	0.0	0.00
7	KC–2–10	CONN COTTON-#4 OLA PIPER.	X			37720	0	0.0	0.	0.0	0.00
7	KC–2–10	CONNMEWBOURNE-BRADFORD #1.	X			38690	0	0.0	0.	0.0	0.00
7	KC–2–12	CONN COTTON #2 PIPER A.	X			37790	0	4.5	900	0.0	0.00
7	KC–2–13	CONN COTTON PETRO-LEUM-1 PIPER.	X			36710	0	4.0	400.	0.0	0.00
7	KC–2–13	CONN COTTON PETR-1 PIPER "B".	X			36730	0	4.5	2900.	0.0	0.00
7	KC–2–14	CONNMEWBOURNE #2 BRADFORD.	X			36650	0	4.5	640.	0.0	0.00
7	KC–3	6″ KIOWA CREEK LAT-ERAL.			X	0	0	6.6	5500.	0.0	0.00
7	KC–3	CONN ARCO-#2 FRED LOESCH.	X			38700	0	4.5	900.	0.0	0.00
7	KC–3–02	CONN MEDALLION #1 ...			X	0	0	4.5	15840	0.0	0.00
7	KC–3–02	CONN SINCLAIR-LOESCH #1.	X			36032	0	4.5	1684.	0.0	0.00
7	KC–3–02	CONN FULTON SELL #4	X			38886	0	0.0	0.	0.0	0.00
7	KC–3–07	CONN DIAMOND-OLA PIPER 1–691.			X	0	0	6.6	4300.	0.0	0.00
7	KC–3–07	CONN ARCO-#1 MAR-GARET L DIXON.	X			38810	0	4.5	600.	0.0	0.00
7	KC–3–08	CONN ARCO-# HALBROOK DAILY WELL.	X			38740	0	4.5	11000.	0.0	0.00
7	KC–3–09	CONN ARCO-#1PAINE BROS CO.	X			38871	0	4.5	6400.	0.0	0.00

ANNEX 1 TO SCHEDULE A—Continued

[Transwestern Gathering Company]

S	Line seg	Description	WH	Comp	Line	Meter	Comp. H/P	Pipe diameter	Pipe length	Pipe 2 diameter	Pipe 2 length
7	KC–3–10	CONN ARCO-#1 FULTON-SELL.	X			388222	0	4.5	1500.	0.0	0.00
7	KC–3–10	CONN FULTON SELL #3	X			38885	0	0.0	0.	0.0	0.00
7	KC–3–11	CONN AMOCO-#2 LILLIE M PETERSON.	X			33680	0	4.5	2000.	0.0	0.00
7	KC–3–15	CONN ARCD-SORENSON DIXON CENT POINT.	X		X	55210	0	4.0	880.	0.0	0.00
7	KC–3A	6″ KIOWA CREEK LAT ..			X	0	0	2.3	280.	0.0	0.00
8	SG–1	TAP TO INTERNORTH MEIER #1 LIPSC.	X			16200	0	0.0	0.	0.0	0.00
8	SG–1	CONN JERNIGAN-BATTIN #1.	X			38280	0	0.0	0.	0.0	0.00
8	SG–1–01	CONN FILON EXPL—#1 FRITZ.	X			41340	0	4.5	5500.	0.0	0.00
8	SG–1/2	4″ W A MEIER #1& ANNA RUF #1 WELLS, TX.			X	0	0	4.5	21120.	0.0	0.00
8	SG–2	4″ LAT TO W A MEIER #1 & ANNA RUF #1 WEL.			X	0	0	4.5	26400.	0.0	0.00
8	WC–1	PRICE 2 WOLF CK 4 IN	X		35660	0	0	4.5	272.	0.0	0.00
8	WC–1	WOLF CREEK TW #755 & 853.		X		0	1470	0.0	0.	0.0	0.00
8	WC–1–01	PRICE IB WOLF CK 4 IN	X			35650	0	4.5	2635.	0.0	0.00
8	WC–1–02	CONN EXXON—#4 WILLIS D PRICE ″B″.	X			38310	0	4.5	1800.	0.0	0.00
8	WC–1–02	CONN EXXON—#5 WILLIS D PRICE.	X			38440	0	4.5	200.	0.0	0.00
8	WC–1/2/3	6″ WOLF CREEK LAT			X	0	0	6.6	79147.	0.0	0.00
8	WC–2	FARM TAP—MARY & ROBERT SQUIRES.	X			3460	0	0.0	0.	0.0	0.00
8	WC–2	R DOYLE 1–WOLF CK 415.	X			35630	0	4.5	272.	0.0	0.00
8	WC–2	PRICE I WOLF CK 4 IN .	X			35640	0	4.5	272.	0.0	0.00
8	WC–2	J DOYLE I–WOLF CK 4 IN.	X			35770	0	0.0	0.	0.0	0.00
8	WC–2	CONNMEWBOURNE OIL CO—SQUIRE #3.	X			55540	0	4.5	2550.	0.0	0.00
8	WC–2–01	CONN HUMBLE-1 TYSON.	X			35970	0	4.5	6200.	0.0	0.00
8	WC–2–02	CONNMEWBOURNE #1 PRICE.	X			38630	0	4.5	3500.	0.0	0.00
8	WC–2–03	CONN HUMBLE-W D PRICE #4.	X			35851	0	0.0	0.	0.0	0.00
8	WC–3	BROWN I–WOLF CRK 4 IN.	X			40200	0	4.5	272.	0.0	0.00
8	WC–3–01	CONN FILON-THORNTION TRUST #1.	X			40260	0	4.5	165.	0.0	0.00
8	WC–3–02	CONNMAPCO-LOIS BROWN #2–27.	X			41460	0	0.0	0.	0.0	0.00
8	WC–3–02	CONNMAPCO-BROWN 1–26.	X			41470	0	0.0	0.	0.0	0.00
8	WC–3–02	CONNMAPCO-PIERCE #1–28.	X			41480	0	0.0	0.	0.0	0.00
8	WC–3–03	SHERRILL OU 1#1 WL LN.	X			40250	0	4.5	6300.	0.0	0.00
8	WC–3–05	CONN BUNKER-WAYLAND #1–5.	X			40290	0	0.0	0.	0.0	0.00
8	WC–3–06	CONN 4″ JORDAN CENT DELIV PT #1.			X	0	0	0.0	0.	0.0	0.00
8	WC–3–06	CONNECT JORDAN O&G #1 CENTRAL DEL PT.	X			41510	0	4.5	20803.	0.0	0.00
8	WC–3–07	SHATTUCK OU–1 #3 WL LN.	X			41520	0	4.5	4281.	0.0	0.00
8	WC–4	GIBBS #1–19 WELL LINE.	X			40230	0	4.5	9240.	0.0	0.00

ANNEX 1 TO SCHEDULE A—Continued

[Transwestern Gathering Company]

S	Line seg	Description	WH	Comp	Line	Meter	Comp. H/P	Pipe diameter	Pipe length	Pipe 2 diameter	Pipe 2 length
13	NP–1	6″ F/HAN #1, WITT #1, KERSHAW #1.			X	0	0	6.6	29515	0.0	0.00
13	NP–1–01	INST TAP HOT-NEUFELD #1.	X			36430	0	0.0	0.	0.0	0.00
13	NP–1–02	CONN GARY GEORGE #1.	X			38965	0	0.0	0.	0.0	0.00
13	NP–1–02	CONN ANADARKO MARIE #1–62 WLDCT.	X			52190	0	0.0	0.	0.0	0.00
13	NP–2	MTR STA SH KERSHAW WL1.	X			37000	0	4.5	18880.	0.0	0.00
13	NP–2	CONN MEWBOURNE SCHWULK #1.	X			53260	0	0.0	0.	0.0	0.00
13	NP–2–02	HAROLD D COURSON—#1–43 WAGGONER.	X			38130	0	4.5	20.	0.0	0.00
13	NP–2–03	CONN FALCON-WAGGONER #1–43.	X			38080	0	4.5	1300.	0.0	0.00
13	NP–2–03	CONN FALCON-WAGGONER #1–43.	X			38130	0	4.5	9600.	0.0	0.00
13	NP–2–04	CONN COURSON #1–42 MCGARROUGH.	X			38540	0	4.5	2200.	0.0	0.00
13	NP–3	CONN PHILCON—1 MAXWELL.	X			36940	0	4.5	15312.	0.0	0.00
13	PE–1	PSHIGODO I–PP LAT 4 IN.	X			34910	0	4.5	272.	0.0	0.00
13	PE–1–02	CONN ANADARDO #1–661 DUDLEY.	X			38620	0	4.5	600.	0.0	0.00
13	PE–1–03	PHL–MC WLIB–8 PERY LAT.	X			34900	0	4.5	2900.	0.0	0.00
13	PE–1–03	CONN COURSON OIL AND GAS #4–571 1ST.	X			34911	0	0.0	0.	0.0	0.00
13	PE–1–03	CONN #1–571 1ST NATL TRUST-ACCT REC..	X			38460	0	4.5	4400.	0.0	0.00
13	PE–1–04	LN FR RIDGMOR TO PSH L.	X			34930	0	4.5	15840.	0.0	0.00
13	PE–1–05	CONN COURSON—#2–571 1ST NATL TRUST.	X			38551	0	4.5	1600.	0.0	0.00
13	PE–1–06	CONN NAT GAS ANADARDO #1–64 CAMP.	X			38962	0	4.5	5400.	0.0	0.00
13	PE–1–06	CONN SANTA FE ENRGY #2–49 WFL AR.	X			52110	0	4.5	6172.	4.5	69.00
13	PE–1–06	CONN NAT GAS ANADARKO 1–46 RICHARDSN.	X			52150	0	4.0	7300.	0.0	0.00
13	PE–1/2/3	6″ & 8″ N. PARRYTON ALT.			X	0	0	8.6	72072.	0.0	0.00
13	PE–2	LAND-EXCHANGE NN DUDE WILSON.	X			9170	6.6	0	650.	0.0	0.00
13	PE–2	HUM-PER WL 1–8 PERY LAT.	X			34610	0	4.5	272.	0.0	0.00
13	PE–2	HUM PER WL1–8 PERY LAT.	X			34811	0	4.5	272.	0.0	0.00
13	PE–2	PERRYTON TW #827		X		0	785	0.0	0.	0.0	0.00
13	PE–2–01	WC HERNDON C #1 WL LN.	X			34750	0	4.5	264.	0.0	0.00
13	PE–2–01	W C HERNDON 1 U L WL LN.	X			37910	0	6.6	475.	0.0	0.00
13	PE–2–01	CONN HERNDON #1	X			37970	0	4.5	2650.	0.0	0.00
13	PE–2–02	4″ F/DUDE WILSON GW5 #1 & WG4 #1.			X	0	0	4.5	13200.	0.0	0.00
13	PE–2–02	JONES #2–750 WELL LINE.	X			34740	0	4.5	317.	0.0	0.00
13	PE–2–02	JONE #1–750 WL LN	X			34770	0	4.5	400.	0.0	0.00
13	PE–2–03	MTR STA HUM–D W WE GU4.	X			34830	0	4.5	100.	0.0	0.00
13	PE–2–03	DUDE WILSON GU–4 #2 WL.	X			37930	0	4.5	211.	0.0	0.00
13	PE–2–04	BRUHLMAN #1–17 WL LN.	X			34870	0	4.5	4752.	0.0	0.00

ANNEX 1 TO SCHEDULE A—Continued

[Transwestern Gathering Company]

S	Line seg	Description	WH	Comp	Line	Meter	Comp. H/P	Pipe diameter	Pipe length	Pipe 2 diameter	Pipe 2 length
13	PE–2–04	CONN HORIZON #2–17 BRUHLMAN.	X			52080	0	4.5	3389.	2.3	98.00
13	PE–2–05	PSHIGODA B #1 4LN & EQ.			X	0	0	4.5	15790.	0.0	0.00
13	PE–2–05	CONN EXXON CORP DUDE WILSON GU 7–3.	X			34711	0	0.0	.....	0.0	0.00
13	PE–2–05	CONN EXXON CORP DUDE WILSON GU 5–4.	X			34731	0	0.0	0.	0.0	0.00
13	PE–2–05	CONN HD WILSON GU7 #7.	X			34950	0	4.5	53.	0.0	0.00
13	PE–2–07	4″ LN ROGERS #3–DUDE WILSON GSG LAT.	X		X	0	0	6.6	10666.	0.0	0.00
13	PE–2–07	CONN EXXON–#2 DUDE WILSON UNIT #2.	X			33080	0	4.5	800.	0.0	0.00
13	PE–2–07	D WLSN GU WL 2–DW LAT.	X			34800	0	4.5	272.	0.0	0.00
13	PE–2–07	ROGERS I–PP LAT 4 IN	X			34820	0	4.5	4277.	0.0	0.00
13	PE–2–07	MTR STA HBL ROGERS WL 3.	X			34860	0	4.5	400.	0.0	0.00
13	PE–2–09	HBL D WILSON 5–Z WL LN.	X			34791	0	4.5	400.	0.0	0.00
13	PE–2–10	CONN EXXON-DUDE WILSON #6.	X			38720	0	4.5	3000.	0.0	0.00
13	PE–2–10	CONN EXXON—#2 DUDE WILSON UNIT #7.	X			38760	0	4.5	600.	0.0	0.00
13	PE–2–10	CONN H&L OPER—#2 PSHIGODA.	X			38850	0	4.5	1200.	0.0	0.00
13	PE–2–11	CONN EXXON-DUDE WILSON GAS UNIT 5–3.	X			33460	0	4.5	1340.	0.0	0.00
13	PE–2–12	CONN EXXON—#2 DUDE WILSON UNIT #1.	X			38800	0	4.5	900.	0.0	0.00
13	PE–2–13	CONN EXXON—#3 DUDE WILSON UNIT #4.	X			38860	0	4.5	2135.	0.0	0.00
13	PE–2–14	CONN EXXON—#5 HELEN ROGERS.	X			33070	0	4.5	2400.	0.0	0.00
13	PE–2–14	DODSON #1–834 WL LN	X			34890	0	0.0	0.	0.0	0.00
13	PE–2–16	CONN SAMSON RE-SOURCES DODSON #3 OCH.	X			52121	0	4.5	738.	2.3	360.00
13	PE–2–17	W C HERNDON B #1–L WL LN.	X			37900	0	4.5	5808.	0.0	0.00
13	PE–2–17	CONN COURSON #2–662 HERNDON OCHL.	X			52160	0	0.0	0.	0.0	0.00
13	PE–2–18	CONN COURSON #1–747 ELDEN WAKA PRT.	X			52181	0	4.5	600.	0.0	0.00
13	SH–1	CON PITMAN-SWINK WL #1.	X			34700	0	4.5	100.	0.0	0.00
13	SH–1–03	SCHNEIDER #1–93 WL LN.	X			36410	0	4.5	24816.	0.0	0.00
13	SH–½	6″ SHARE-WEST PERRYTON LAT.			X	0	0	6.6	66000.	0.0	0.00
13	SH–2–02	MTR STA RDG GREGG WL 1.	X			34530	0	4.5	2640.	0.0	0.00
13	SH–2–02	TEVIS #1–20 WL LN	X			36420	0	4.5	15312.	0.0	0.00
13	SH–2–02	CONNER #1–36 WL LN .	X			36750	0	4.5	370.	0.0	0.00
13	ER–2–03	SMITH #1–30 WELL LN .	X			34540	0	4.5	6864.	0.0	0.00
14	ER–½	6″ ELLIS RANCH FLD LAT.			X	0	0	6.6	52800.	0.0	0.00
14	ER–3	6″ ELLIS RANCH FLD LAT.			X	0	0	6.6	31680.	0.	0.00
14	ER–3–01	MTR STA H KAY NELL W#1.	X			34640	0	4.5	10560.	0.0	0.00

ANNEX 1 TO SCHEDULE A—Continued

[Transwestern Gathering Company]

S	Line seg	Description	WH	Comp	Line	Meter	Comp. H/P	Pipe diameter	Pipe length	Pipe 2 diameter	Pipe 2 length
14	ER–3–01	CONN AMOCO—#2 KAYNELL-HAMKER TRUSTA.	X			38710	0	0.0	0.	0.0	0.00
14	ER–3–02	ARTHUR MORGAN #1 WL LN.	X			34660	0	4.5	19008.	0.0	0.00
14	ER–3–03	MORRIS C–1 4 LN & EQ	X			34940	0	4.5	370.	0.0	0.00
14	ER–3–04	CONNMEWBOURNE—#1 MORRIS.	X			38610	0	4.5	6400.	0.0	0.00
14	ER–3M	4″ MITCHELL #1 & #A–1 LAT.			X	0	0	4.5	4224.	0.0	0.00
14	ER–3M1	4″ MITCHELL #1 & #A–1 LAT.			X	0	0	4.5	10560.	0.0	0.00
14	GR–1	PERRY A #1–730 WL LN	X			36490	0	6.6	45408.	0.0	0.00
14	GR–1–01	CONN ANDARKO #1–58 SELL NORTHRUP.	X			55360	0	0.0	0.	0.0	0.00
14	GR–1–01	WHEAT #1–678 WL LN ..	X			37130	0	4.5	53.	0.0	0.00
14	GR–1–01	SHELL-WHEAT #1–732 WL LN.	X			37150	0	6.6	7920.	0.0	0.00
14	GR–1–01	CONNMEWBOURNE—PERRY #2.	X			38680	0	0.0	0.	0.0	0.00
14	GR–1–02	CONN DICK BARTON #1	X			37260	0	6.6	7920.	0.0	0.00
14	GR–1–03	CONN APACHE-MILES UNIT #1.	X			34484	0	4.5	1600.	0.0	0.00
14	GR–1–03	CONN APACHE HARRY L KING #1.	X			36470	0	6.6	21120.	0.0	0.00
14	GR–1–03	CONN MOUNTAIN FRONT VARIOUS WELLS.	X			36471	0	0.0	0.	0.0	0.00
14	GR–1–04	CONN TED WEINER-MRS Z D GUY–1.	X			37400	0	4.5	1700.	0.0	0.00
14	GR–1–07	CONNMEWBOURNE—#1 PERRY.	X			38600	0	4.5	2100.	0.0	0.00
14	GR–1–09	CONN TARPON OIL-H PEERY #2.	X			36480	0	6.6	7392.	0.0	0.00
14	GR–2	GRAY ROCK TW #826 ...		X		0	785	0.0	0.	0.0	0.00
14	KC–3–02	MTR STA FAL SEA-HAN #1..	X			36060	0	4.5	7920.	4.5	100.00
14	KC–3–03	LANDERS #1 WL LN	X			37162	0	4.5	6864.	0.0	0.00
14	KC–3–12	CONN COURSON OIL #2–855 LANDERS.	X			55101	0	4.5	2520.	0.0	0.00
20	BH–1/2/3/4/5	8″ HANSFORD LAT			X	0	0	8.6	63360.	0.0	0.00
20	BH–2	BRILLHART TW #748 & 796.		X		0	1493	0.0	0.	0.0	0.00
20	BH–2–01	LAT 4 GANDY & GLOVER TO BRILLHART.			X	0	0	4.0	10800.	0.0	0.00
20	BH–2–01	GO-GAND WL LN-BRLHT LT.	X			33930	0	4.5	21120.	4.5	100.00
20	BH–2–03	FARM TAP—GEORGE C. COLLARD.	X			352	0	0.0	0.	0.0	0.00
20	BH–2–04	CONN GULF-LOWE–1 ...	X			33440	0	4.0	6000.	0.0	0.00
20	BH–2–04	CONN BILLINGSLEY #1 .	X			33840	0	0.0	0.	0.0	0.00
20	BH–2–05	HORIZON-LOWE #1 WL LN.	X			33960	0	4.5	5808.	0.0	0.00
20	BH–2–05	BALLARD #1–123 WL LN	X			33990	0	4.5	5808.	0.0	0.00
20	BH–2–06	CONN BROCK EXPL CORP #1 ANDERSON.	X			33411	0	0.0	0.	0.0	0.00
20	BH–2–06	MTR STA HOR OG COP WL 1.	X			33970	0	4.5	7920.	0.0	0.00
20	BH–2–07	CONN GULF-RHODA HART—1.	X			33400	0	8.0	5280.	0.0	0.00
20	BH–3	CONN UNIT DRILL & EXPL NO 1 BECK.	X			33090	0	4.5	120.	0.0	0.00
20	BH–3–01	FUR-MUR WL LN-BRLHT LT.			X	0	0	4.5	15240.	0.0	0.00
20	BH–3–01	CONN MARY #2	X			33982	0	2.0	60.	0.0	0.00
20	BH–3–03	CONNMEWBOURNE-HIGGS #1.	X			33160	0	0.0	0.	0.0	0.00
20	BH–3/4	8″ BERNSTEIN LAT			X	0	0	8.0	52800.	0.0	0.00
20	BH–4	8″ BRILLHART LAT			X	0	0	8.6	36960.	0.0	0.00

ANNEX 1 TO SCHEDULE A—Continued

[Transwestern Gathering Company]

S	Line seg	Description	WH	Comp	Line	Meter	Comp. H/P	Pipe diameter	Pipe length	Pipe 2 diameter	Pipe 2 length
20	BH–4–01	FARM TAP-PAT PATTERSON/ROBERT H. ARCHER.	X			401	0	0.0	0.	0.0	0.00
20	BH–4–01	GO-STL WL LN-BRLHT LAT.	X			33870	0	4.5	15840	0.0	0.00
20	BH–5–03	CONNMARLIN OIL #1 SUE.	X			53250	0	0.0	0.	0.0	0.00
20	BH–5–04	CONN HORIZON TX BRILHRT 1–6 HNGFRD.	X			53230	0	4.0	3000.	0.0	0.00
21	JC–1	CONN BARBOUR ENERGY CORP. #1 JARVIS.	X			33110	0	0.0	0.	0.0	0.00
21	JC–1	JOHN CREEK TW #747 .		X		0	708	0.0	0.	0.0	0.00
21	JC–1/2	6″ JOHN CREEK LAT			X	0	0	6.6	4382.	0.0	0.00
21	JC–2	JOHN CREEK CROSSOVER.	X			9238	0	0.0	0.	0.0	0.00
21	JC–2	MTR STA SUN O-MIN K #1.	X			33700	0	4.5	4752.	0.0	0.00
21	JC–2	MTR STA GLE MATT WLI A.	X			33941	0	6.6	18480.	4.5	100.00
21	JC–2–01	4″ LAT F/JACKSON #1 & K L WEST #1.			X	0	0	4.5	13200.	0.0	0.00
21	JC–2–01	ARCHER #1–72 WELL LINE.	X			33730	0	4.5	317.	0.0	0.00
21	JC–2–02	PAN AM-BRAINARD #1 LN.	X			33780	0	4.5	5280.	0.0	0.00
21	JC–2–02	MATHEWS #1 4LN & EQ	X			38000	0	4.5	6336.	0.0	0.00
21	JC–2–2	MATHEWS #1–80 WL LN	X			35052	0	4.5	264.	0.0	0.00
21	JC–3	CLEMENT #1–14 WL LN	X			33980	0	4.5	28512.	0.0	0.00
21	JC–3	CONN HORIZON #1 CONVERSE A OCHLTR.	X			53240	0	0.0	0.	0.0	0.00
21	JC–3–01	PAN AM-BECK B #1 LN .	X			35061	0	4.5	264.	0.0	0.00
21	LP–1–01	FLOWERS #1–5 5 WL LN.	X			35041	0	4.5	158.	0.0	0.00
21	LP–1–02	CONN #2 REED	X			33650	0	4.5	4900.	0.0	0.00
21	LP–1–02	CONN ELEANOR REED WELL #1.	X			35071	0	4.5	264.	0.0	0.00
21	LP–1–04	CONN AMOCO PRO #2 WB MCINTIRE ''A''.	X			52240	0	4.5	1800.	0.0	0.00

ANNEX 2 TO SCHEDULE A

Res sys	Fn	State	Acct sys	Loc	Location description	Area	Line No.	Map ref
					SPEARMAN			
35	GP	TX	75	30101	LIPS AS WELL GATH/TEXAS	A	TG 30101 ...	T–2.
35	GP	TX	75	30301	JOHNSON #1 WELL GATH/TEXAS	A	TG 30301 ...	T–2.
35	GP	TX	75	30401	STATEX NITSCHKE #1 WELL GATH/TEXAS	A	TG 30401 ...	T–2.
35	GP	TX	75	31001	BULTMAN #1 WELL GATH/TEXAS	A	TG 31001 ...	T–2.
35	GP	TX	75	32101	LIPS B1 WELLO GATH/TEXAS	A	TG 32101 ...	T–2.
35	GP	TX	75	33201	KNOX PIPKIN #1–28 WELL GATH/TEXAS	A	TG 33201 ...	T–2.
35	GP	TX	75	38601	KILEBREW WELL GATH/TEXAS	A	TG 38601 ...	T–2.
35	GP	TX	75	43801	FLOWERS #1 WELL GATH/TEXAS	A	TG 43801 ...	T–2.
35	GP	TX	75	48001	SPEARMAN 16IN SUCTION GATH/TEXAS	A	TG 48001 ...	T–2.
35	GP	TX	75	53601	FLOWERS #1/FLOWERS #1 TIE-IN	A	TG 53601 ...	T–2.
35	GP	TX	75	61401	LIPS RANCH GATH/TEXAS	A	TG 61401 ...	T–2.
35	GP	TX	75	72301	ROBERTS COUNTY #1 SUCTION LINE/TX	A	TG 72301 ...	T–2.
35	GP	TX	75	73501	ROBERTS CO #1 LINE/TEXAS	A	TG 73501 ...	T–2.
35	GP	TX	75	81191	HODGES #1–39 WEKK GATHERING/TEXAS	A	TG 81191 ...	T–2.
35	GP	TX	75	86901	LIPS RANCH LATERAL	A	TG 86901 ...	T–2.
35	GP	TX	75	87001	LIPS RANCH TIE-OVER LINE	A	TG 87001 ...	T–2.
35	**GP**	**TX**	**75**	**24001**	**NORTH OF SPEARMAN GATH/TEXAS**	**A**	**TG24001**	**T–3.**
35	GP	TX	75	24601	MCCARTY A1 WELL GATH/TEXAS	A	TG 24601 ...	T–3.
35	GP	TX	75	24701	VERNON A1 WELL GATH/TEXAS	A	TG 24701 ...	T–3.
35	GP	TX	75	31601	KIRK #1 WELL GATH/TEXAS	A	TG 31601 ...	T–3.
35	GP	TX	75	32801	JACKSON A#1 UT/LT WELL GATH LINE/TX	A	TG 32801 ...	T–3.

ANNEX 2 TO SCHEDULE A—Continued

Res sys	Fn	State	Acct sys	Loc	Location description	Area	Line No.	Map ref
35	GP	TX	75	32901	WILMETH WELL GATH/TEXAS	A	TG 32901	T–3.
35	GP	TX	75	33501	ODC #1–44 WELL GATH/TEXAS	A	TG 33501	T–3.
35	GP	TX	75	34701	REX #1 WELL GATH/TEXAS	A	TG 34701	T–3.
35	GP	TX	75	35001	YANDA ET AL WELL GATH/TEXAS	A	TG 35001	T–3.
35	GP	TX	75	35101	KENNY WELL GATH/TEXAS	A	TG 35101	T–3.
35	GP	TX	75	38501	CLEMENTINE-LEE WELL GATH/TEXAS	A	TG 38501	T–3.
35	GP	TX	75	38801	JACKSON #1LT/BEULAH #1 TIE-IN GATH	A	TG 38801	T–3.
35	GP	TX	75	38901	BRAINARD #3 WELL GATH/TEXAS	A	TG 38901	T–3.
35	GP	TX	75	40601	MCINTIRE #1-LT AND UT WELL GATH/TEXAS	A	TG 40601	T–3.
35	GP	TX	75	41201	BEULAH #1 WELL GATH/TEXAS	A	TG 41201	T–3.
35	GP	TX	75	46101	MATHEWS #2 WELL GATH/TEXAS	A	TG 46101	T–3.
35	GP	TX	75	60801	COOKE #1C WELL GATH/TEXAS	A	TG 60801	T–3.
35	GP	TX	75	64201	CROWE 7–58 WELL GATH/TEXAS	A	TG 64201	T–3.
35	GP	TX	75	86801	BRACKEN ENERGY-ETLING #1–8	A	TG 86801	T–3.
					FULLER			
37	GP	TX	55	53401	FISHER #1 WELL GATH/TEXAS	A	TG 53401	T–3.
37	GP	TX	55	53701	R WAMBLE #1	A	TG 53701	T–3.
37	GP	TX	55	53801	PEARL #1	A	TG 53801	T–3.
37	GP	TX	55	53901	BOARD #1 WELL GATH/TEXAS	A	TG 53901	T–3.
37	GP	TX	55	59201	GENE CLUCK #1 WELL GATHERING LINE/T	A	TG 59201	T–3
					PERRYTON			
79	GP	OK	44	16701	GEORGE MOUNTS WELL GATH/OKLAHOMA	A	OG 16701	O–13.
79	GP	OK	44	17801	SIMS #1 LATERAL GATH/OKLAHOMA	A	OG 17801	O–13.
79	GP	OK	44	24001	WILSON #1 GATH/OKLAHOMA	A	OG 24001	O–13.
79	GP	OK	44	27301	PALMER #1 WELL GATH/OKLAHOMA	A	OG 27301	O–13.
79	GP	OK	44	31901	PITTMAN #1 WELL/GATH/OKLAHOMA	A	OG 31901	O–13.
79	GP	OK	44	47201	BECKWITH 1–22 WELL GATHERING/OKLA	A	OG 47201	O–13.
79	GP	OK	44	50501	NAYLOR #1 WELL GATH/OKLA	A	OG 50501	O–13.
79	GP	TX	71	21301	CUTTER #1 WELL GATH/TEXAS	A	TG 21301	T–2.
79	GP	TX	71	21401	PHISGODA #1 WELL GATH/TEXAS	A	TG 21401	T–2.
79	GP	TX	71	21501	ORINGDERFF WELL GATH/TEXAS	A	TG 21501	T–2.
79	GP	TX	71	21601	WRIGHT #1 WELL GATH/TEXAS	A	TG 21601	T–2.
79	GP	TX	71	21701	SCHOENHALS #1 WELL	A	TG 21701	T–2.
79	GP	TX	71	21801	GEORGE MOUNTS #1 WELL GATH/TEXAS	A	TG 21801	T–2.
79	GP	TX	71	27301	PALMER #1 WELL GATH LINE/TEXAS	A	TG 27301	T–2.
79	GP	TX	71	28401	GEORGE #1 WELL GATH/TEXAS	A	TG 28401	T–2.
79	GP	TX	71	28801	LE MASTER #1 WELL GATH/TEXAS	A	TG 28801	T–2.
79	GP	TX	71	30801	ODELL LA MASTER WELL GATH/TEXAS	A	TG 30801	T–2.
79	GP	TX	71	32301	GREENE #1 WELL	A	TG 32301	T–2.
79	GP	TX	71	32601	SIMS #1–36L WELL GATH/TEXAS	A	TG 32601	T–2.
79	GP	TX	71	34301	MOYES-GEORGE #1 WELL GATH/TEXAS	A	TG34301	T–2.
79	GP	TX	71	38701	PERRY #1 WELL GATH/TEXAS	A	TG 38701	T–2.
79	GP	TX	71	39201	PERRY B1 WELL GATH/TEXAS	A	TG 39201	T–2.
79	GP	TX	71	71701	SCHULTZ #1 WELL GATHERING/TEXAS	A	TG 71701	T–2.
79	GP	TX	71	80031	BATMAN #1–21 SIDE VALVE/TEXAS	A	TG 80031	T–2.
79	GP	TX	71	80751	TANDY #1 WELL GATHERING LINE/TX	A	TG 80751	T–2.

ITEM IN BOLD REFLECTS A PORTION OF THE TOTAL LINE NO. REFERENCED AS TG24001

The facilities for line no. TG24001 include only the following facilities: Buckner A1 wellhead facilities and approximately 3.4 miles of 4–inch pipeline from well connection in section 20 to side valve on the 10–inch TG24001 in section 27; and approximately 6.5 miles of 4–inch pipeline from a side valve on TG64201 in section 25 to a side valve on the 10–inch TG24001 in section 30 (including well facilities for G1, G1A, G2, & G3).

This Interim Agreement (''Agreement'') is by and among Phillips Petroleum Company (''Phillips''), a corporation organized, existing and doing business under and by virtue of the laws of the state of Delaware, with its principal executive offices located at Phillips Building, Bartlesville, Oklahoma 74004; Enron Corp. (''Enron'') a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its principal executive offices located at 1400 Smith Street, Houston, Texas 77002; and the Federal Trade Commission (''Commission''), an independent agency of the United States Government, established under the Federal Trade Commission Act of 1914, 15 U.S.C. § 41, et seq. (collectively, the ''Parties'').

Premises

Whereas, on November 15, 1994, Phillips entered into an Agreement to acquire certain voting securities from Enron, as further described in the ''Acquisition'' definition in the Agreement Containing Consent Order between Phillips, Enron, and the Commission; and

Whereas, the Commission is now investigating the Acquisition to determine whether it would violate any of the statutes enforced by the Commission; and

Whereas, if the Commission accepts the Agreement Containing Consent Order (''Consent Order''), the Commission must place it on the public record for a period of at least sixty (60) days and may subsequently withdraw such acceptance pursuant to the

provisions of Section 2.34 of the Commission's Rules; and

Whereas, under the Consent Order, Enron will not sell, transfer or otherwise convey, directly or indirectly, to Phillips certain assets listed in Schedule A of the Consent Order in connection with the Acquisition; and

Whereas, the Commission is concerned that if an understanding is not reached to preserve the status quo ante, divestiture resulting from any proceeding challenging the legality of the Acquisition might not be possible, or might be a less than effective remedy; and

Whereas, the purpose of this Agreement is to preserve the status quo ante pending Commission acceptance or rejection of the proposed Consent Order and to preserve a remedy for any anticompetitive effects of the Acquisition; and

Whereas, Phillips and Enron's entering into this Agreement shall in no way be construed as an admission by Phillips and Enron that the Acquisition is illegal or anticompetitive; and

Whereas, Phillips and Enron understand that no act or transaction contemplated by this Agreement shall be deemed immune or exempt from the provisions of the antitrust laws or the Federal Trade Commission Act by reason of anything contained in this Agreement.

Now, therefore, with the understanding that the Commission has not yet determined whether the Acquisition will be challenged, and in consideration of the Commission's agreement that, unless the Commission determines to reject the Consent Order, it will not seek further relief from Phillips and Enron with respect to the Acquisition (except that the Commission may exercise any and all rights to enforce this Agreement and the Consent Order to which it is annexed and made a part thereof,) the Parties agree as follows:

1. Phillips and Enron agree to execute and be bound by the Consent Order. Phillips, Enron, and the Commission further agree that each term defined in the Consent Order shall have the same meaning in this Agreement.

2. Phillips and Enron agree that from the date this Agreement is accepted until the earlier of the dates listed in subparagraphs 2.a. and 2.b., they will not consummate the Acquisition:

a. Three (3) business days after the Commission withdraws its acceptance of the Consent Order pursuant to the provisions of Section 2.34 of the Commission's rules; or

b. One day after the Consent Order becomes final.

3. Should the Federal Trade Commission seek in any proceeding to compel Phillips to divest itself of the voting securities acquired in the Acquisition, or assets conveyed pursuant thereto, or to seek any other injunctive or equitable relief, Phillips and Enron shall not raise any objection based on the expiration of the applicable waiting period under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 or the fact that the Commission has permitted the Acquisition. Phillips and Enron also waive all rights to contest the validity of this Agreement.

4. For the purpose of determining or securing compliance with this Agreement, subject to any legally recognized privilege, and upon written request with reasonable notice to Phillips or Enron, as the case may be, made to its principal office, Phillips or Enron, as the case may be, shall permit any duly authorized representative or representatives of the Commission:

a. Access during the office hours of the company and in the presence of counsel to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of the company relating to compliance with this Agreement;

b. Without restraint or interference from it, to interview officers or employees of the company, who may have counsel present, regarding any such matters.

5. In the event the Commission has not finally issued the Consent Order within one hundred twenty (120) days of its publication in the **Federal Register,** Phillips or Enron may each, at its own option, terminate this Agreement by delivering written notice of termination to the Commission, which termination shall be effective ten (10) days after the Commission's receipt of such notice, and this Agreement shall thereafter be of no further force and effect. If this Agreement is so terminated, the Commission may take such action as it deems appropriate, including, but not limited to, an action pursuant to Section 13(b) of the Federal Trade Commission Act, 15 U.S.C. § 53(b). Termination of this Agreement shall in no way operate to terminate the Consent Order that Phillips and Enron have entered into in this matter.

6. This Agreement shall not be binding until approved by the Commission.

Analysis To Aid Public Comment on the Provisionally Accepted Consent Order

The Federal Trade Commission (''Commission'') has accepted for public comment from Phillips Petroleum Co. (''Phillips'') and Enron Corp. (''Enron'') an agreement containing consent order. This agreement has been placed on the public record for sixty (60) days for reception of comments from interested persons.

Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's order.

The Commission's investigation of this matter concerns Phillips' proposed acquisition, through its wholly-owned subsidiary, GPM Gas Services Corp., of certain pipeline gathering systems owned by Enron's subsidiaries, Northern Natural Gas Co. and Transwestern Pipeline Co. Phillips and Enron are engaged in gas gathering—the transportation of natural gas, for their own or for others' use, from a well head or producing area to a gas transmission pipeline or a gas processing plant. The Commission's investigation of this matter found potential anticompetitive problems in the Texas Panhandle counties of Hansford, Lipscomb, and Ochiltree and the immediately adjoining area in Beaver County, Oklahoma (hereafer referred to as the Panhandle counties).

For certain gas and oil producers in the Panhandle counties, the respondents are the only, or two of very few, choices available for producers who require gas gathering services. The Commission was concerned that the proposed merger would eliminate competition between the respondents in providing gas gathering services. The Commission was also concerned that the proposed merger would lead to anticompetitive increases in gathering rates to these producers, and an overvall reduction in gas drilling and production.

The agreement Containing Consent order would, if finally issued by the Commission, settle charges alleged in the Commission's Complaint that Phillips' acquisition of Enron's gas gathering systems substantially lessened competition in the gathering of natural gas in the Panhandle counties. The nature of such competition to be preserved is the actual and potential competition to provide gas gathering services to producers and other customers of the parties. The Commission's Complaint further alleges that Phillips' merger agreement with Enron violates Section 5 of the Federal Trade Commission Act and that the merger, if consummated, would violate Section 5 of the Federal Trade

Commission Act and Section 7 of the Clayton Act.

The order accepted for public comment contains provisions that would require that Enron not sell approximately 830 miles of pipe and related gas gathering assets within the Panhandle counties to Phillips. The gas gathering assets to be excluded from the transaction are listed in Schedule A of the proposed Consent Order. For a period of ten (10) years from the date that the order becomes final, the order would require prior Commission notification before (a) Phillips could acquire from any one person during any 18 month period more than five miles of gas gathering pipelines located within the Panhandle counties, or (b) Enron could sell the Schedule A assets to Phillips or Maxus Energy Corporation, another large gas gatherer in the Panhandle counties.

A separate agreement between the Commission and Phillips and Enron preserves the status quo pending final action by the Commission to accept or reject the proposed consent order. Phillips and Enron agreed to take no steps to consummate the proposed acquisition until the Commission accepts or rejects the proposed order.

The purpose of this analysis is to invite public comment concerning the consent order. This analysis is not intended to constitute an official interpretation of the agreement and order or to modify their terms in any way.

Donald S. Clark,

Scretary.

[FR Doc. 95–22581 Filed 9–11–95; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Scientific Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) has made final findings of scientific misconduct in the following case:

Alan L. Landay, Ph.D., Rush-Presbyterian—St. Luke's Medical Center: Based on an investigation conducted by the institution, ORI found that Alan L. Landay, Ph.D., Associate Professor, Department of Immunology/Microbiology, engaged in scientific misconduct involving two instances of plagiarism in publications related to two Public Health Service (PHS) grants.

Dr. Landay has entered into a Voluntary Settlement Agreement with ORI in which he has accepted ORI's finding and, for the two (2) year period beginning August 8, 1995, has voluntarily agreed to:

(1) Exclude himself from serving in any advisory capacity to PHS, including but not limited to service on any PHS advisory committee, board, and/or peer review committee, or as a consultant; and

(2) Certify in every PHS research application or report that all contributors to the application or report are properly cited or otherwise acknowledged. The certification by the Respondent must be endorsed by an institutional official. A copy of the endorsed certification is to be sent to ORI by the institution.

ORI acknowledges that Dr. Landay cooperated with the institutional investigation and the ORI review, accepted responsibility for his actions, and appropriately corrected the scientific literature. The two published papers (Coon, J.S., Landay, A.L., & Weinstein, R.S. ''Advances in flow cytometry for diagnostic pathology.'' Laboratory Investigations 57:453–479, 1987; and Landay, A., Hennings, C., Forman, M., & Raynor, R. ''Whole blood method for simultaneous detection of surface and cytoplasmic antigens by flow cytometry.'' Cytometry 14:433–440, 1993) that contained plagiarized text have been corrected (Landay, A. Correspondence. Laboratory Investigations 70:134, 1994; and Landay, A., Jennings, C., Forman, M., & Raynor, R. Correction. Cytometry 14:698, 1993).

FOR FURTHER INFORMATION CONTACT: Director, Division of Research Investigations, Office of Research Integrity, 5515 Security Lane, Suite 700, Rockville, MD 20852.

Lyle W. Bivens,

Director, Office of Research Integrity.

[FR Doc. 95–22515 Filed 9–11–95; 8:45 am]

BILLING CODE 4160–17–P

Agency for Toxic Substances and Disease Registry

Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy (DOE) Sites: Hanford Health Effects Subcommittee

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Agency for Toxic Substances and Disease Registry (ATSDR) and the Centers for Disease Control and Prevention (CDC) announce the following meeting.

Name: Citizens Advisory Committee on Public Health Service Activities and Research at DOE Sites: Hanford Health Effects Subcommittee (HHES).

Times and Dates: 8 a.m.–5 p.m., September 28, 1995. 8 a.m.–5 p.m., September 29, 1995.

Place: Holiday Inn Boise/Airport, 3300 Vista Avenue, Boise, Idaho 83705, telephone 208/344–8365, FAX 208/343–9635.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 150 people.

Background: A Memorandum of Understanding (MOU) was signed in October 1990 and renewed in November 1992 between ATSDR and DOE. The MOU delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under sections 104, 105, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or ''Superfund''). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List and at sites that are the subject of petitions from the public; and other health-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles.

In addition, under an MOU signed in December 1990 with DOE, the Department of Health and Human Services (HHS) has been given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities, workers at DOE facilities, and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production and use. HHS delegated program responsibility to CDC.

Purpose: The purpose of this meeting is to receive updates from the Inter Tribal Council on Hanford Health Projects; updates and clarification from ATSDR and CDC representatives on outstanding issues; address procedures for renewing, adding, and replacing HHES members; discuss with Agency personnel, issues relevant to the Technical Steering Panel; and receive reports from the Outreach, Public Health Activities, and Health Studies Work Groups.

Matters To Be Discussed: Agenda items will include ATSDR's & CDC's updates, a discussion of ''Popular Epidemiology,'' guidance from ATSDR, Office of Public Affairs, on media relations, and topics germane to work group activities.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Linda A. Carnes, Health Council Advisor, ATSDR, E–28, 1600 Clifton Road, NE, Atlanta, Georgia 30333, telephone 404/639–0730, FAX 404/639–0759.

Dated: September 6, 1995.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–22561 Filed 9–11–95; 8:45 am]

BILLING CODE 4163–70–M

Public Meeting of the Inter Tribal Council, in Association With the Meeting of the Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy (DOE) Sites: Hanford Health Effects Subcommittee

The Agency for Toxic Substances and Disease Registry (ATSDR) and the Centers for Disease Control and Prevention (CDC) announce the following meeting.

Name: Public Meeting of the Inter Tribal Council (ITC), in association with the meeting of the Citizen Advisory Committee on Public Health Service Activities and Research at DOE Sites: Hanford Health Effects Subcommittee (HHES).

Time and Date: 9 a.m.–4:30 p.m., September 27, 1995.

Location: Holiday Inn Boise/Airport, 3300 Vista Avenue, Boise, Idaho 83705, telephone 208/344–8365, FAX 208/343–9635.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people.

Background: A Memorandum of Understanding (MOU) was signed in October 1990 and renewed in November 1992 between ATSDR and DOE. The MOU delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under sections 104, 105, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or ''Superfund''). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List and at sites that are the subject of petitions from the public; and other public-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles.

In addition, under an MOU signed in December 1990 with DOE, the Department of Health and Human Services (HHS) has been given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities, workers at DOE facilities, and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production and use. HHS delegated program responsibility to CDC.

Community involvement is a critical part of ATSDR's and CDC's energy-related research and activities and input from members of the ITC is part of these efforts. The ITC will work with HHES to provide input on Native American health effects at the Hanford, Washington site.

Purpose: The purpose of this meeting of the ITC is to discuss issues that are unique to tribal involvement with HHES including considerations regarding a proposed medical monitoring program and explorations of options and alternatives to providing support for tribal involvement in HHES.

Matters To Be Discussed: Agenda items will include dialogue pertaining to issues unique to tribal involvement with HHES. This will include an update on the status of ATSDR's draft policy on establishing government-to-government relations with the nine affected tribes as sovereign nations, and exploring options and alternatives to providing support for tribal participation in HHES.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Linda A. Carnes, Health Council Advisor, ATSDR, E–28, 1600 Clifton Road, NE, Atlanta, Georgia 30333, telephone 404/639–0730, FAX/639–0759.

Dated: September 6, 1995.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).0

[FR Doc. 95–22563 Filed 9–11–95; 8:45 am]

BILLING CODE 4163–70–M

Centers for Disease Control and Prevention

[INFO–95–03]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request study materials on the proposed project, call the CDC Reports Clearance Officer on (404) 639–3453.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques for other forms of information technology. Send comments to Wilma Johnson, CDC Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Projects

1. Evaluation of the ''WomanKind: Support Systems NS for Battered Women'' Project in Minnesota—New—The Division of Violence Prevention at CDC has been directed to work to increase physicians' and other health care providers' ability to identify and attend to the needs of victims of domestic violence. WomanKind strives to: (1) increase health care providers' capacity and motivation to identify and refer battered women to WomanKind advocates from several hospital departments, (2) facilitate clients' decisions to alter their circumstances, and (3) work with clients to identify and access existing community services that provide practical support in developing and implementing a plan for change.

This program is in operation at three hospitals in the Minneapolis area. Three similar hospitals will be included as comparison sites. The evaluation is being conducted to determine the extent to which the objectives listed above are achieved and to identify the integration and level of contribution made by each specific program element. These data are specific to the project in Minnesota. Specific outcomes include examining health care providers and WomanKind advocates knowledge, attitudes, motivations, and skills, and the ability to successfully diagnose, manage, refer, and otherwise assist female victims of intimate partner violence. Client's satisfaction with services, number of repeat contacts with WomanKind, and (perhaps) their use of community services will be considered, as well. An examination of materials, implementation process and the potential for this program to be used in other settings are additional components of the evaluation study. If proven effective, this program could be used with other domestic violence prevention strategies to reduce the incidence of domestic violence.

Respondents	No. of respondents	No. of responses/respondent	Avg. burden/response (in hours)
Hospital Staff KABB Survey—Census 1 and 6 month and year	950	3	.17
Hospital Staff KABB Survey—Trainees Immediate Post-test	250	1	.17

Respondents	No. of respondents	No. of responses/respondent	Avg. burden/response (in hours)
Volunteer Advocate KABB Survey	30	4	.17
Womankind Client KABB Survey	450	4	.25
Control Client KABB Survey	200	4	.25
Hospital Staff Training Evaluation	250	1	.08
Volunteer Advocate Training Evaluation	30	6	.08
Hospital Staff Trainer Evaluation	250	1	.08
Volunteer Trainer Evaluation	30	6	.08

2. Symptom and Disease Prevalence Questionnaire and Supplemental Modules (0923–0012)—Revised—A three-year extension will be requested to this information collection to continue to conduct health studies among populations living near hazardous waste sites and potentially exposed to hazardous substances in order for ATSDR and our cooperative investigators to evaluate the association between exposure to hazardous substances and adverse health effects. The core questionnaire will be slightly revised to provide improved flow and respondent understanding. In these investigations, data on the prevalence of a range of symptoms and diseases suspected are collected. Much of the information is specific to certain organ systems, suspected to be at risk based on the contaminants and pathways of exposure present at each site; thus, organ-specific questionnaires are used in conjunction with the core questionnaire for the corresponding organ systems identified for each site. The results may identify specific public health concerns requiring further investigation or the may calm unsubstantiated fears concerning the perceived health impact of a site. Although these studies are designed to be site specific, the results of a number of similar studies may be combined to provide ATSDR with some broader measure of the public health impact of certain of these sites and conditions. Door-to-door canvassing will serve to census the areas; personal interviews will also be used for collecting information from the respondents.

Respondents	No. of respondents	No. of responses/respondent	Avg. burden/response (in hours)
Individuals Completing Core	3500	1	.75
Individuals Completing Supplement	3500	1	.25

3. A CLIA Comprehension Survey and Information Program for Physicians—New—The purpose of this contract is to enable the Centers for Disease Control and Prevention (CDC) to assess the depth and accuracy of the knowledge base of clinicians regarding the Clinical Laboratory Improvement Amendments of 1988 (CLIA '88) regulations as they relate to physicians office laboratories (POLs), and to provide specific information and training to practitioners based on this assessment. In 1990, CDC was designated by the Department of Health and Human Services to assist in the implementation of CLIA '88; this project is a direct response to that mandate.

Through contact with the laboratory and physician communities, CDC has become aware of gaps in information and understanding about the CLIA '88 regulations, especially as they relate to physicians office laboratories. Misconceptions regarding the CLIA '88 regulations in the community may be impeding successful implementation of the regulations and causing unnecessary and inappropriate responses in POL testing sites. Therefore, CDC is proposing a survey of practicing physicians to assess the depth and accuracy of the knowledge base of clinicians regarding the CLIA '88 regulations as they relate to POLs, and to provide specific information and training to practitioners based on this assessment.

Respondents	No. of respondents	No. of responses/respondent	Avg. burden/response (in hours)
Laboratories	5250	1	.2

4. Project BEGIN—New—Project BEGIN is a randomized controlled study to evaluate the effectiveness of an early intervention program for children from birth to three years of age.

The intervention consists of four components: home visits; attendance at a child development center; parent groups; and facilitation of access to a comprehensive array of health and social services. The intervention program is hypothesized to promote optimal childhood development (e.g., cognitive, behavioral, social) and family functioning, and result in better long-term social outcomes, including improved school performance, lower rates of criminal behavior, better employment history, and more stable families.

The study will be conducted at 10 sites across the country. Each site will enroll 32 children, randomly assigned to either the intervention or the comparison arm of the study.

The purpose of the study is to gather data for studying delivery of community intensive and comprehensive early intervention models; benefit to the children enrolled and their families of interventions, and the impact of benefits on subgroups of children.

Respondents will be the children and their parents recruited into both the intervention and comparison arms of the study. Standardized assessment instruments will be used to assess the developmental status of the children. In-person interviews, mostly using standard instruments, will be used to collect data from parents. Data collection will be on-going throughout the study. Data will be used in two ways: to assess the effectiveness of the intervention; and to document and evaluate the quality of intervention delivery.

Respondents	No. of respondents	No. of responses/respondent	Avg. burden/response (in hours)
Children	320	4	4
Care Giver ..	640	1	1

Dated: September 6, 1995.

Joseph R. Carter,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–22565 Filed 9–11–95; 8:45 am]

BILLING CODE 4163–18–P

[Announcement 602]

Public Health Conference Support Cooperative Agreement Program for Human Immunodeficiency Virus (HIV) Prevention

Introduction

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1996 funds for the Public Health Conference Support Cooperative Agreement Program for Human Immunodeficiency Virus (HIV) Prevention. The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of HIV Infection. (To order a copy of ''Healthy People 2000'' or CDC's ''Strategic Plan for Preventing Human Immunodeficiency Virus (HIV) Infection'' (July 8, 1992), see the Section ''Where to Obtain Additional Information.'')

Authority

This program is authorized under sections 301 (42 U.S.C. 241) and 310 (42 ′U.S.C. 242n) of the Public Health Service Act, as amended. Applicable program regulations are found in 42 CFR part 52—Grants for Research Projects.

Smoke-Free Workplace

The Public Health Service strongly encourages all grant recipients to provide a smoke-free workplace and promote the non-use of all tobacco products, and Pub. L. 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Eligible Applicants

Eligible applicants are non-governmental, nonprofit and for-profit organizations. Thus, universities, colleges, research institutions, hospitals, other public and private (e.g., national, regional) organizations, federally recognized Indian tribal governments, Indian tribes or Indian tribal organizations, and small, minority- or women-owned businesses are eligible for these cooperative agreements. Current recipients of CDC HIV funding must provide the award number and title of the program (see the Section ''Program Requirements, C. Letter of Intent'').

Availability of Funds

Up to $250,000 may be available in FY 1996 to fund approximately 10 to 15 awards. The awards will average $20,000 and will be funded for a 12-month budget and project period. The funding estimate may vary and is subject to change, based on availability of funds. Awards will initially be made on a contingency basis as described in the Purpose section.

The following are examples of the most frequently encountered costs that may or may not be charged to the cooperative agreement:

1. As approved, CDC funds may be used for direct cost expenditures: salaries, speaker fees, rental of conference related equipment, registration fees, and transportation cost (not to exceed economy class fares) for non-Federal employees.

2. CDC funds may not be used for the purchase of equipment, payments of honoraria, organizational dues, entertainment or personal expenses, cost of travel and payment of a full-time Federal employee, or per diem or expenses, other than mileage, for local participants.

3. CDC funds may not be used for reimbursement of indirect costs.

4. Although the practice of handing out novelty items at meetings is often employed in the private sector to provide participants with souvenirs, Federal funds may not be used for this purpose.

5. CDC funds may be used for only those parts of the conference specifically supported by CDC as documented in the Notice of Cooperative Agreement (award document).

Recipient Financial Participation

Part of the cost of the proposed conference must be funded by other than CDC funds.

Purpose

The purpose of the HIV prevention conference support cooperative agreement is to provide partial support for non-Federal conferences or specified portions of non-Federal conferences to stimulate efforts to prevent the transmission of HIV. CDC will collaborate on conferences that specifically focus on preventing HIV transmission. Because conference support by CDC creates the appearance of CDC co-sponsorship, CDC will actively participate in the development and approval of those portions of the agenda supported by CDC funds. Contingency awards will be made allowing usage of only 25% of the total amount to be awarded until a final full agenda is approved by CDC. This will provide funds for costs associated with preparation of the agenda. The remainder of funds will be released only upon acceptance of the final full agenda. CDC reserves the right to terminate co-sponsorship if it does not approve the final agenda.

Program Requirements

CDC will provide support for conferences that are:

1. Regional (more than one State), national, or international in scope;

2. Targeted to professionals contributing to HIV prevention efforts; and

3. Focused on the transfer of HIV prevention research and evaluation findings to intervention efforts or the application of these prevention efforts to service providers and health professionals who provide service to individuals whose behaviors place them at increased risk for HIV infection.

Topics concerned with issues and areas other than HIV prevention should be directed to other public health agencies or in accordance with current **Federal Register** Notices (see **Federal Register** Notice 600, April 20, 1995, 60 FR 19750).

The activities related to the development of HIV prevention conferences require substantial CDC collaboration and involvement. In conducting activities to achieve the purpose of the program, the recipient shall be responsible for conducting activities listed in section A., and CDC will be responsible for conducting activities listed in section B.:

A. Recipient Activities

1. Manage all activities related to program content (e.g., objectives, topics, participants, session design, workshops, special exhibits, speakers, fees, agenda composition, and printing). Many of

these items may be developed in concert with assigned CDC project personnel.

2. Provide draft copies of the agenda and proposed ancillary activities to the CDC program office for review and comment. Submit a copy of the final agenda and proposed ancillary activities to the CDC Grants Management Office for acceptance.

3. Determine and manage all promotional activities (e.g., title, logo, announcements, mailers, press). CDC must review and approve the use of any materials with reference to CDC involvement or support.

4. Manage all registration processes with participants, invitees, and registrants (e.g., travel, reservations, correspondence, conference materials and hand-outs, badges, registration procedures).

5. Plan, negotiate, and manage conference site arrangements, including all audiovisual needs.

6. Develop and conduct education and training programs on HIV prevention.

7. Collaborate with CDC staff in reporting and disseminating results and relevant HIV prevention education and training information to appropriate Federal, State, and local agencies, health-care providers, HIV/AIDS prevention and service organizations, and the general public.

B. CDC Activities

1. Provide technical assistance through telephone calls, correspondence, and site visits in the areas of program agenda development, implementation, and priority setting related to the cooperative agreement.

2. Provide scientific collaboration for appropriate aspects of the program, including selection of speakers, pertinent scientific information on risk factors for HIV infection, preventive measures, and program strategies for the prevention of HIV infection.

3. Review draft agendas and approve the final agenda and proposed activities prior to release of restricted funds.

4. Assist in the reporting and dissemination of research results and relevant HIV prevention education and training information to appropriate Federal, State, and local agencies, health-care providers, the scientific community, and HIV/AIDS prevention and service organizations, and the general public.

C. Letter of Intent

Respondents must submit a one-page, typewritten letter of intent (LOI) that briefly describes the title, location, and purpose of the meeting, its relationship to the following described CDC Topics of Special Interest, the date of the proposed conference, and the intended audience (number and description). No attachments, booklets, or other documents accompanying the LOI will be considered. The letter should also include the estimated total cost of the conference and the percentage of the total cost (which must be less than 100%) being requested from CDC. Current recipients of CDC HIV funding must provide the award number and title of the funded programs. LOIs will be reviewed by CDC program staff, and an invitation to submit an application will be made based on the proposed conference's relationship to the CDC topics of special interest and the availability of funds. An invitation to submit an application does not constitute a commitment by CDC to fund the applicant.

D. Topics of Special Interest

Funding preferences are established to ensure a balance of CDC HIV prevention funding and to address at-risk populations that are underserved. CDC is especially interested in supporting meetings and conferences for HIV prevention service providers on the following topics:

1. Prevention of HIV infection among:

a. Underserved populations (e.g., women of reproductive age, racial and ethnic minorities);

b. High-risk populations, including both in-school and out-of-school youth; or

c. Populations in special settings (e.g., racial and ethnic minorities; out-of-school, high-risk youth; incarcerated persons; men who have sex with men; high-risk drug users; and migrant workers). Particular attention will be given to organizations that serve multiple high-risk populations.

2. Development of HIV prevention strategies with a broad range of community partners including those who have not traditionally been involved with public health programs (e.g., business, religious leaders).

3. Development of prevention marketing strategies, including various behavior modification messages related to sex practices (e.g., abstinence, condom use).

Note: To provide for adequate time to collaborate on the meeting agenda and content, applicants should allow a minimum of 3 months from the scheduled application due date to the planned date of the conference. (See the Section Letter of Intent and Application Submission and Deadlines.) Meetings scheduled to begin earlier than March 15, 1996, will not be routinely considered for funding.

Evaluation Criteria

LOIs will be reviewed by CDC program staff for consistency with CDC's HIV prevention goals and priorities and the purposes of this program. An invitation to submit an application will be made on the basis of the proposed conference's relationship to the CDC determined topics of special interest, the timing of the meeting or conference that would allow for CDC input, and the availability of funds. Applications will be reviewed and evaluated according to the following criteria.

(Total points available is 100).

A. Proposed Program and Technical Approach: (50 Points)

Evaluation will be based on:

1. The applicant's description of the proposed conference as it relates to HIV prevention and education, including the public health need of the proposed conference and the degree to which the conference can be expected to influence public health practices, and the extent of the applicant's collaboration with other agencies serving the intended audience, including local health and education agencies concerned with HIV prevention.

2. The applicant's description of conference objectives in terms of quality, specificity and the feasibility of the conference based on the operational plan, and the extent to which evaluation mechanisms for the conference adequately assess increased knowledge, attitudes, and behaviors of the target participants.

3. The relevance and effectiveness of the proposed agenda in addressing the chosen HIV prevention/education topic.

4. The degree to which conference activities proposed for CDC funding strictly adhere to the prevention of HIV transmission.

B. Applicant Capability (25 Points)

Evaluation will be based on:

1. The adequacy and commitment of institutional resources to administer the program.

2. The adequacy of existing and proposed facilities and resources for conducting conference activities.

3. The degree to which the applicant has established and used critical linkages with health and education agencies with the mandate for HIV prevention. Letters of support from such agencies should be obtained to demonstrate the linkages specific to the conference.

C. Qualifications of Program Personnel: (25 Points)

Evaluation will be based on:

1. The qualifications, experience, and commitment of the principal staff person, and his/her ability to devote adequate time and effort to provide effective leadership.

2. The competence of associate staff persons, discussion leaders, and speakers to accomplish conference objectives.

3. The degree to which the application demonstrates that key personnel have knowledge about the transmission of HIV, and current nationwide information and education efforts that may affect, and be affected by, the proposed conference.

D. Budget Justification and Adequacy of Facilities: (Not Scored)

The proposed budget will be evaluated on the basis of its reasonableness, concise and clear justification, consistency with the intended use of cooperative agreement funds, and the extent to which the applicant documents financial support from other sources.

Executive Order 12372 Review

This program is not subject to the Executive Order 12372 review.

Public Health System Reporting Requirements

This program is not subject to the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number is 93.118, Acquired Immunodeficiency Syndrome (AIDS) activities.

Other Requirements

Recipients must comply with the document entitled Content of HIV/AIDS-Related Written Materials, Pictorials, Audiovisuals, Questionnaires, Survey Instruments, and Educational Sessions in Centers for Disease Control Assistance Programs (June 1992) (a copy is in the application kit). To meet the requirements for a Program Review Panel, recipients are encouraged to use an existing Program Review Panel such as the one created by the State health department's HIV/AIDS prevention program. If the recipient forms its own Program Review Panel, at least one member must also be an employee (or a designated representative) of an appropriate health or educational agency, consistent with the revised Content Guidelines. The names of review panel members must be listed on the Assurance of Compliance form (CDC Form 0.1113) which is also included in the application kit.

Letter of Intent and Application Submission and Deadlines

The original and two copies of the LOI must be postmarked by the October 13, 1995, deadline date to be considered. Within four weeks, successful respondents will receive a written request to submit an application for funding; unsuccessful respondents will be also be notified in writing. A request to submit an application does not constitute a commitment to fund the applicant.

The original and two copies of the application must be submitted on PHS Form 5161–1 (OMB Number 0937–0189) by December 22, 1995. The earliest possible award date is February 16, 1996, and the earliest possible conference date is March 15, 1996. Applications must be postmarked on or before the deadline date and sent to Clara M. Jenkins, Grants Management Officer, Grants Management Branch, Procurement and Grants Office (Ann. #602), Centers for Disease Control and Prevention (CDC), MS E–15, 255 East Paces Ferry Road, NE., Room 320, Atlanta, GA 30305.

Deadlines

The Letter of Intent and requested applications shall be considered as meeting the applicable deadline if they are either:

A. Received on or before the deadline date, or

B. Postmarked on or before the deadline date (respondents should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks will not be acceptable as proof of timely mailing.)

Where To Obtain Additional Information

To receive additional written information, call (404) 332–4561. You will be asked to leave your name, address, and phone number, and will need to refer to Announcement Number 602. You will receive a copy of the program announcement, a list of the relevant Healthy People 2000 HIV objectives, and the addresses and phone numbers for CDC contact personnel. The announcement is also available through the CDC homepage on the Internet. The address for the CDC homepage is http://www.cdc.gov. CDC will not send application kits by facsimile or express mail unless the cost for the latter is paid by the addressee.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from Mr. Kevin Moore, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 320, Atlanta, GA 30305, telephone (404) 842–6550. Programmatic technical assistance may be obtained from Ms. Linda LaChanse, Program Analyst, Training and Technical Services Support Branch, Division of HIV/AIDS Prevention, National Center for HIV/STD/TB Prevention, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE., Mailstop E–40, Atlanta, GA 30333, telephone (404) 639–2918. Please refer to Announcement Number 602 when requesting information and when submitting your application in response to the announcement.

Respondents may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report, Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 512–1800. Single copies of CDC's Strategic Plan for Preventing Human Immunodeficiency Virus (HIV) Infection (July 8, 1992) can be obtained by calling the CDC National AIDS Clearinghouse at (800) 458–5231.

Dated: September 5, 1995.

Joseph R. Carter,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–22588 Filed 9–11–95; 8:45 am]

BILLING CODE 4163–18–P

Advisory Council for the Elimination of Tuberculosis: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following council meeting.

Name: Advisory Council for the Elimination of Tuberculosis (ACET).

Times and Dates: 8:30 a.m.–5:30 p.m., September 28, 1995; 8:30 a.m.–1:30 p.m., September 29, 1995.

Place: Corporate Square Office Park, Corporate Square Boulevard, Building 11, Room 1413, Atlanta, GA 30329.

Status: Open to the public, limited only by the space available.

Purpose: This council advises and makes recommendations to the Secretary of Health and Human Services, the Assistant Secretary for Health, and the Director, CDC, regarding the elimination of tuberculosis. Specifically, the Council makes recommendations

regarding policies, strategies, objectives, and priorities; address the development and application of new technologies; and reviews the extent to which progress has been made toward eliminating tuberculosis.

Matters To Be Discussed: Tuberculosis in foreign-born persons; ACET Strategic Plan to Eliminate Tuberculosis Progress Report; future priorities and direction for ACET; updates on funding issues, health-care workers safety and infection control, TB vaccine workshop, updates from the National TB Controller's Association, DTBE strategic plan for training, FDA regulations related to TB, and ACET statements in progress.

Agenda items are subject to change as priorities dictate.

Contact Pserson for More Information: Samuel W. Dooley, Jr., M.D., Acting Associate Director for Science, National Center for Prevention Services, CDC, and Acting Executive Secretary, ACET, 1600 Clifton Road, NE, M/S E–07, Atlanta, GA 30333, telephone 404/639–8006.

Dated: September 6, 1995.

Carolyn J. Russell,

Director, Management Analysis and Services Office Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–22562 Filed 9–11–95; 8:45 am]

BILLING CODE 4163–18–M

Food and Drug Administration

Representatives of Health Professional Organizations; Notice of Open Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing a meeting with health professional organizations. The meeting will be chaired by Sharon Smith Holston, Deputy Commissioner for External Affairs. The agenda will include brief presentations and discussions on the process for submitting nominees for advisory committees, communicating with FDA, and other topics of particular interest to members of health professional organizations.

DATES: The meeting will be held on Monday, October 2, 1995, 2 p.m. to 4 p.m.

ADDRESSES: The meeting will be held at the Hubert H. Humphrey Bldg., conference room 503A, 200 Independence Ave. SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Peter H. Rheinstein, Office of Health Affairs (HFY–40), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5470.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to provide an opportunity for representatives of health professional organizations to be briefed by senior FDA staff, and to provide an opportunity for informal discussion and comment on topics of particular interest to health professional organizations.

Dated: September 5, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95–22514 Filed 09–11–95; 8:45 am]

BILLING CODE 4160–01–F

Public Health Service

Proposed Data Collections Available for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection project, the Office of the Assistant Secretary for Health publishes periodic summaries of proposed projects. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, call Kathryn Lotfi on (301) 443-2006.

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project

Application Packets for Real Property for Public Health Purposes—0937–0191—Revision—The Department of Health and Human Service administers a program to convey or lease surplus real property to States and their political subdivisions and instrumentalities, to tax-supported institutions, and to nonprofit institutions to be used for health purposes. State and local governments and non-profit organizations use these applications to apply for excess/surplus, under-utilized/unutilized and off-site Government real property. Information in the application is used to determine eligibility to purchase, lease, or use property under the provisions of the surplus property program. The Environmental information form, used to evaluate potential environmental effects of a proposal as required by the National Environmental Policy Act of 1969, is being revised to provide factual data to support the response to each question and to leave no doubt about what conditions or adverse effects are being considered as well as to make it more user friendly. Respondents: State, Local or Tribal Government, Not-for-profit institutions; Annual Number of Respondent: 114; Number of Responses per Respondent: 1; Average Burden per Response: 200 hours; Estimated Annual Burden: 22,800 hours. Send comments to Kathryn Lotfi, Office of General Counsel, Room 4A-53, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: September 6, 1995.

James Scanlon,

Director, Data Policy Staff Office of the Assistant Secretary for Health and PHS, Reports Clearance Officer.

[FR Doc. 95–22593 Filed 9–11–95; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV 930–1430–01; N–59940]

Temporary Closure; Las Vegas District

SUMMARY: The Las Vegas Stateline Resource Area within the Las Vegas District will issue a temporary closure of certain public lands for the protection of person, property, and public lands and resources for the purpose of a BLM permitted recreational event, ''Planet Move''. Legal description:

Mount Diablo Meridian

T. 25 S., R. 60 E.,
Sec. 9: SW¼
Approximately 160 acres (Jean Dry Lake).

DATE: September 28, 1995 through October 2, 1995.

TIME: Continuous through stated dates.

A map of the affected lands will be available for inspection at the Las Vegas District Office. The following are exceptions to the closure:

- Authorized personnel required for the event, i.e., construction crews, caterers, entertainers, security officers, etc.
- Attendees who have paid the required admission fee.

Violation of this closure is punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months. Authority for temporary closure is contained in Title 43 CFR, subpart 8364.1(a).

Dated: August 18, 1995.

Michael F. Dwyer,

District Manager.

[FR Doc. 95–22520 Filed 9–11–95; 8:45 am]

BILLING CODE 4310–HC–P

[OR–080–083–6332–02; G5–211]

Amendment to Camping Restriction Order Established; Salem District; OR

ACTION: Ammendment to the Overnight Camping Restriction Order Established for the Salem District, published in the June 8, 1984, edition of the **Federal Register** (49 FR 23950).

SUMMARY: The Overnight Camping Restriction Order Established for the Salem District, published in the June 8, 1984, edition of the **Federal Register** (49 FR 23950) is hereby amended as follows:

1. Maximum days of continuous occupancy for Yellowbottom Recreation Site will now be 14 days.

2. Delete the Quartville Recreation Corridor from the Recreation site/area list. The Quartzville Recreation Corridor will now be managed in accordance with the 14-day camping stay limit for BLM-administered lands in the Salem District, published in the September 27, 1991, edition of the **Federal Register** (56 FR 49199).

EFFECTIVE DATE: Effective upon publication of this notice.

FOR FURTHER INFORMATION CONTACT: Richard Prather, Area Manager, Cascades Resource Area, 1717 Fabry Road SE, Salem, OR 97306, (503) 375–5646.

Pete Schay,

Acting Area Manager, Cascades Resource Area.

[FR Doc. 95–22322 Filed 9–11–95; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF INTERIOR

Bureau of Land Management

[OR–080–083–6332–02; G5–210]

Motorized Vehicle Restriction on Public Lands; Salem District; OR

ACTION: Notice of restriction of use of motorized vehicles on public lands.

SUMMARY: Notice is hereby given that effective immediately, that unless otherwise authorized, all public motorized vehicle travel is prohibited on the following areas:

1. The last 0.25 mile of Road 9–1E–12, east of where it intersects with Road 8–1E–26 in Section 5, of T. 8S., R. 2E., W.M.

2. All lands administered by the Bureau of Land Management in Sections 15, 16, and 17, T. 6S., R. 2E., W.M.

The authority for this closure is 43 CFR 8364. This closure will remain in effect until further notice.

FOR FURTHER INFORMATION CONTACT: Richard Prather, Area Manager, Cascades Resource Area, 1717 Fabry Road SE, Salem, OR 97306, (503) 375–5646.

SUPPLEMENTARY INFORMATION: The purpose of these closures is to protect soil, vegetation and sensitive cultural, paleontological, and riparian resources, from excessive damage by motor vehicles.

Pete Schay,

Acting Area Manager, Cascades Resource Area.

[FR Doc. 95–22320 Filed 9–11–95; 8:45 am]

BILLING CODE 4310–33–P

Minerals Management Service

Information Collection Submitted to the Office of Management and Budget (OMB) for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to OMB for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collections of information and related forms may be obtained by contacting the Bureau's Clearance Officer at the telephone number listed below. Comments and suggestions on the proposal should be made directly to the Bureau Clearance Officer and to the Office of Management and Budget; Paperwork Reduction Project (1010–0044); Washington, D.C. 20503, telephone (202) 395–7340, with copies to Chief, Engineering and Standards Branch; Mail Stop 4700; Minerals Management Service; 381 Elden Street; Herndon, Virginia 22070–4817.

Title: Application for Permit to Drill, Form MMS–123.

OMB approval number: 1010–0044.

Abstract: Respondents submit Form MMS–123 to the Minerals Management Service's (MMS) District Supervisors to be evaluated and approved or disapproved for the adequacy of the equipment, materials, and/or procedures which the lessee plans to use to safely perform drilling, well-completion, well-workover, and well-abandonment operations.

This form is necessary to enable MMS to ensure safety of operations; protection of the human, marine, and coastal environments; conservation of the natural resources in the Outer Continental Shelf (OCS); prevention of waste; and protection of correlative rights with respect to oil, gas, and sulphur operations in the OCS.

Bureau form number: Form MMS–123.

Frequency: On occasion.

Description of respondents: OCS oil, gas, and sulphur lessees.

Annual burden hours: 1,555.

Bureau Clearance Officer: Arthur Quintana (703) 787–1239.

Henry G. Bartholomew,

Deputy Associate Director for Operations and Safety Management.

[FR Doc. 95–22526 Filed 9–11–95; 8:45 am]

BILLING CODE 4310–MR–M

Information Collection Submitted to the Office of Management and Budget (OMB) for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to OMB for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collections of information and related forms may be obtained by contacting the Bureau's Clearance Officer at the telephone number listed below. Comments and suggestions on the proposal should be made directly to the Bureau Clearance Officer and to the Office of Management and Budget; Paperwork Reduction Project (1010–0068); Washington, D.C. 20503, telephone (202) 395–7340, with copies to Chief, Engineering and Standards Branch; Mail Stop 4700; Minerals Management Service; 381 Elden Street; Herndon, Virginia 22070–4817.

Title: 30 CFR Part 250, Subpart M, Unitization.

OMB approval number: 1010–0068.

Abstract: Respondents are required to obtain approval from the Minerals Management Service's Regional Supervisors when they enter into an agreement to unitize operations under two or more leases. Any proposed modifications to the agreement must also be approved by the Regional Supervisor. This information is necessary to ensure that operations under the proposed unit agreement will result in the prevention of waste, conservation of natural resources, and protection of correlative rights including the Government's interest.

Bureau form number: None.

Frequency: On occasion.

Description of respondents: Federal Outer Continental Shelf oil and gas lessees.

Annual burden hours: 2,424.

Bureau Clearance Officer: Arthur Quintana (703) 787–1239.

Dated: August 9, 1995.

Henry G. Bartholomew,

Deputy Associate Director for Operations and Safety Management.

[FR Doc. 95–22525 Filed 9–11–95; 8:45 am]

BILLING CODE 4310–MR–M

Information Collection Submitted to the Office of Management and Budget (OMB) for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to OMB for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collections of information and related forms may be obtained by contacting the Bureau's Clearance Officer at the telephone number listed below. Comments and suggestions on the proposal should be made directly to the Bureau Clearance Officer and to the Office of Management and Budget; Paperwork Reduction Project (1010–0039); Washington, D.C. 20503, telephone (202) 395–7340, with copies to Chief, Engineering and Standards Branch; Mail Stop 4700; Minerals Management Service; 381 Elden Street; Herndon, Virginia 22070–4817.

Title: Well Potential Test Report and Request for Maximum Production Rate (MPR), Form MMS–126.

OMB approval number: 1010–0039.

Abstract: Respondents submit Form MMS–126 to the Minerals Management Service's (MMS) Regional Supervisors for the purposes of establishing well maximum production rates (MPR). This information is used to establish the maximum daily rate at which oil and gas may be produced from a specific well completion.

Bureau form number: Form MMS–126.

Frequency: On occasion.

Description of respondents: Outer Continental Shelf oil and gas lessees.

Annual burden hours: 3,727.

Bureau Clearance Officer: Arthur Quintana, (703) 787–1239.

Dated: August 3, 1995.

Henry G. Bartholomew,

Deputy Associate Director for Operations and Safety Management.

[FR Doc. 95–22522 Filed 9–11–95; 8:45 am]

BILLING CODE 4310–MR–M

Information Collection Submitted to the Office of Management and Budget (OMB) for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to OMB for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collections of information and related forms may be obtained by contacting the Bureau's Clearance Officer at the telephone number listed below. Comments and suggestions on the proposal should be made directly to the Bureau Clearance Officer and to the Office of Management and budget; Paperwork Reduction Project (1010–0045); Washington, DC 20503, telephone (202) 395–7340, with copies to Chief, Engineering and Standards Branch; Mail Stop 4700; Minerals Management Service; 381 Elden Street; Herndon, VA 22070–4817.

Title: Sundry Notices and Reports on Wells, Form MMS–124.

OMB approval number: 1010–0045.

Abstract: Respondents submit Form MMS–124 to the Minerals Management Service's (MMS) District.

Supervisors to be evaluated and approved or disapproved for the adequacy of the equipment, materials, and/or procedures which the lessee plans to use to safely perform drilling, well-completion, well-workover, and well-abandonment operations.

This form is necessary to enable MMS to ensure safety of operations, protection of the human, marine, and coastal environments, conservation of the natural resources in the OCS, prevention of waste, and protection of correlative rights with respect to oil, gas, and sulphur operations in the OCS.

Bureau form number: Form MMS–124.

Frequency: On occasion.

Description of respondents: Outer Continental Shelf oil, gas, and sulphur lessees.

Annual burden hours: 8,820.

Bureau Clearance Officer: Arthur Quintana, (703) 787–1239.

Dated: August 9, 1995.

Henry G. Bartholomew,

Deputy Associate Director for Operations and Safety Management.

[FR Doc. 95–22523 Filed 9–11–95; 8:45 am]

BILLING CODE 4310–MR–M

Information Collection Submitted to the Office of Management and Budget (OMB) for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to OMB for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collections of information and related forms may be obtained by contacting the Bureau's Clearance Officer at the telephone number listed below. Comments and suggestions on the proposal should be made directly to the Bureau Clearance Officer and to the Office of Management and Budget; Paperwork Reduction Project (1010–0079); Washington, D.C. 20503, telephone (202) 395–7340, with copies of Chief, Engineering and Standards Branch; Mail Stop 4700; Minerals Management Service; 381 Elden Street; Herndon, Virginia 22070–4817.

Title: 30 CFR Part 250, Subpart G, Abandonment of Wells.

OMB approval number: 1010–0079.

Abstract: Respondents submit this information to the Minerals Management Service so it can verify that the final disposition of a well is being diligently pursued and that any deviations from the approved plan and the documentation of the temporary plugging of the wellbore and marking of the location have been performed by the lessee operator.

Bureau form number: None.

Frequency: Annual.

Description of respondents: Federal Outer Continental Shelf oil and gas lessees.

Annual burden hours: 213.

Bureau Clearance Officer: Arthur Quintana (703) 787–1239.

Dated: August 9, 1995.

Henry G. Bartholomew,

Deputy Associate Director for Operations and Safety Management.

[FR Doc. 95–22524 Filed 9–11–95; 8:45 am]

BILLING CODE 4310–MR–M

Fish and Wildlife Service

Availability of a Draft Recovery Plan for the Aquatic and Riparian Species of Pahranagat Valley for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of a draft recovery plan for the aquatic and riparian species of Pahranagat Valley. This plan undertakes an ecosystem approach by discussing the recovery needs of three native, endangered fish species. The Service solicits review and

comment from the public on this draft plan.

DATES: Comments on the draft recovery plan must be received on or before November 13, 1995 to receive consideration by the Service.

ADDRESSES: Persons wishing to review the draft recovery plan may obtain a copy by contacting the State Supervisor, Nevada Ecological Services State Office, U.S. Fish and Wildlife Service, 4600 Kietzke Lane, Building C–125, Reno, Nevada, 89502 (telephone: 702–784–5227), or the Assistant Regional Director, Ecological Services, U.S. Fish and Wildlife Service, Eastside Federal Complex, 911 NE 11th Avenue, Portland, Oregon, 97232–4181 (telephone: 503–231–6241). Written comments and materials regarding the plan should be addressed to Mr. David L. Harlow, State Supervisor, at the above Reno, Nevada address. Comments and materials received are available on request for public inspection, by appointment, during normal business hours at the above Reno, Nevada address.

FOR FURTHER INFORMATION CONTACT: Ms. Stephanie Byers at the above Reno, Nevada address (telephone: 702–784–5227).

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of the U.S. Fish and Wildlife Service's (Service) endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for the conservation of the species, establish criteria for reclassification or delisting, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*) requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other Federal agencies will also take these comments into account in the course of implementing approved recovery plans.

Three native, endangered fish species are endemic to the Pahranagat Valley in Lincoln County, Nevada. The Pahranagat roundtail chub is found in only 12 km of the Pahranagat River. The White River springfish is found only in the spring pool of Ash Spring. The Hiko White River springfish is found in the spring pools of Hiko and Crystal Springs. Populations of Pahranagat roundtail chub vary between 150 to 250 adult fish. The White River springfish population is stable with approximately 7000 fish. The Hiko White River springfish population is critically low (<35) in Crystal Spring and more common (approximately 5500 fish) in Hiko Spring. The principle causes of decline for these species are habitat modification and nonnative fish introductions. Critical habitat has been designated for the two subspecies of springfish. Ninety-five percent of the habitats occupied by these species are on private lands. Recovery of this species will require removal and/or control of nonnative fishes, restoration and protection of occupied habitats, and protection of ground water sources.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified will be considered prior to approval of the plan.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: September 1, 1995.

Michael J. Spear,

Regional Director.

[FR Doc. 95–22587 Filed 9–11–95; 8:45 am]

BILLING CODE 4310–55–P

AGENCY FOR INTERNATIONAL DEVELOPMENT

Housing Guaranty Program; Notice of Investment Opportunity

The U.S. Agency for International Development (USAID) has authorized the guaranty of loans to the Republic of Indonesia (''Borrower'') as part of USAID's development assistance program. The proceeds of this loan will be used to facilitate the delivery of urban environmental infrastructure for the benefit of low-income families in Indonesia. At this time, the Government of Indonesia has authorized USAID to request proposals from eligible lenders for a loan under this program of $25 million U.S. Dollars (US$25,000,000). The name and address of the Borrower's representatives to be contacted by interested U.S. lenders or investment bankers, the amount of the loan and project number are indicated below:

Government of Indonesia

Project No: 497–HG–002—Amount: US$25,000,000

Housing Guaranty Loan Nos.: 497–HG–007 A01, 497–HG–008 A01

1. Attention: Mr. Darsjah, Director General of Budget Ministry of Finance, Jalan Lapangan Banten Timur No. 2, Jakarta, Indonesia; Telex No.: 45799 DJMLNIA or Telefax No.: 011–(62–21)–365859 or 374530 (preferred communication); Telephone Nos.: 011–(62–21)–3458289, 372758 or 3842234 or 3848294.

2. Attention: Mr. Paul Sutopo, Bank of Indonesia, Jalan M.H. Thamrin No. 2, Jakarta, Indonesia; Telex No.: 44200 BISIR IA or 46611 BISIR IA; Telefax No.: 011–(62–21)–3452892 (preferred communication); Telephone No.: 011–(62–21)–367972.

3. Attention: Mr. Ibrahim Zarkasi, Bank of Indonesia, One World Financial Center, 200 Liberty Street, 6th Floor, New York, N.Y. 10281, Telefax No.: 212/945–1316 (preferred communication); Telephone Nos.: 212/945–1310 or 1311.

Interested lenders should contact the Borrower as soon as possible and indicate their interest in providing financing for the Housing Guaranty Program. Interested lenders should submit their bids to the Borrower's representatives by *Tuesday, September 26, 1995, 12:00 noon Eastern Daylight Savings Time.*

Bids should be open for a period of 48 hours from the bid closing date. Copies of all bids should be simultaneously sent to the following:

Mr. Joel Kolker, Acting Director, Regional Housing and Urban Development Office, USAID/Jakarta, Box 4, APO AP 96520, c/o American Embassy, Jakarta, Indonesia, (Street address: J1 Medan Merdeka Selatan No. 5, Jakarta, Indonesia); Telex No.: 44218 AMEMB IA; Telefax No.: 011–(62–21)–380–6694 (preferred communication); Telephone No.: 011–(62–21)–360–360

Mr. Charles Billand, Assistant Director; Mr. Peter Prinie, Financial Advisor; Address: U.S. Agency for International Development, Office of Environment and Urban Programs, G/ENV/UP, Room 409, SA–18, Washington, D.C. 20523–1822; Telex No.: 892703 AID WSA; Telefax Nos.: 703/875–4384 or 875–4639 (preferred

communication); Telephone Nos.: 703/875–4300 or 875–4510

For your information the Borrower is currently considering the following terms:

(1) *Amount:* U.S. $25 million.

(2) *Term:* 30 years.

(3) *Grace Period:* Ten years grace on repayment of principal. (During grace period, semi-annual payments of interest only). If *variable* interest rate, repayment of principal to amortize in equal, semi-annual installments over the remaining 20-year life of the loan. If *fixed* interest rate, semi-annual level payments of principal and interest over the remaining 20-year life of the loan.

(4) *Interest Rate:* Alternatives of both fixed and variable rate loans are requested.

(a) *Fixed Interest Rate:* If rates are to be quoted based on a spread over an index, the lender should use as its index a long bond, specifically the 7⅝% U.S. Treasury Bond due February 15, 2025. Such rate is to be set at the time of acceptance.

(b) *Variable Interest Rate:* To be based on the six-month British Bankers Association LIBOR, preferably with terms relating to Borrower's right to convert to fixed. The rate should be adjusted weekly.

(5) *Prepayment:*

(a) Offers should include any options for prepayment and mention prepayment premiums, if any.

(b) Only in an extraordinary event to assure compliance with statutes binding USAID, USAID reserves the right to accelerate the loan (it should be noted that since the inception of the USAID Housing Guaranty Program in 1962, USAID has not exercised its right of acceleration).

(6) *Fees:* Offers should specify the placement fees and other expenses, including USAID fees, Paying and Transfer Agent fees, and out of pocket expenses, etc. Lenders are requested to include all legal fees in their placement fee. Such fees and expenses shall be payable at closing from the proceeds of the loan. *All fees should be clearly specified in the offer.*

(7) *Closing Date:* Not to exceed 60 days from date of selection of lender.

Selection of investment bankers and/or lenders and the terms of the loan are initially subject to the individual discretion of the Borrower, and thereafter, subject to approval by USAID. Disbursements under the loan will be subject to certain conditions required of the Borrower by USAID as set forth in agreements between USAID and the Borrower.

The full repayment of the loans will be guaranteed by USAID. The USAID guaranty will be backed by the full faith and credit of the United States of America and will be issued pursuant to authority in Section 222 of the Foreign Assistance Act of 1961, as amended (the ''Act'').

Lenders eligible to receive the USAID guaranty are those specified in Section 238(c) of the Act. They are: (a) U.S. citizens; (2) domestic U.S. corporations, partnerships, or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose share capital is at least 95 percent owned by U.S. citizens; and, (4) foreign partnerships or associations wholly owned by U.S. citizens.

To be eligible for the USAID guaranty, the loans must be repayable in full no later than the thirtieth anniversary of the disbursement of the principal amount thereof and the interest rates may be no higher than the maximum rate established from time to time by USAID.

Information as to the eligibility of investors and other aspects of the USAID housing guaranty program can be obtained from: Mr. Michael J. Lippe, Director, Office of Environment and Urban Programs, U.S. Agency for International Development, Room 409, SA–18, Washington, D.C. 20523–1822; Fax Nos: 703/875–4384 or 875–4639; Telephone: 703/875–4300.

Dated: September 7, 1995.

Michael G. Kitay,

Assistant General Counsel, Bureau for Global Programs, Field Support and Research, U.S. Agency for International Development.

[FR Doc. 95–22692 Filed 9–11–95; 8:45 am]

BILLING CODE 6116–01–M

INTERSTATE COMMERCE COMMISSION

Notice of Meeting of National Grain Car Council

TIME AND DATES: 9:00 a.m., Wednesday, September 20, 1995.

PLACE: Hearing Room A, Interstate Commerce Commission, 12th and Constitution Avenue, N.W., Washington, D. C. 20423.

SUMMARY: The National Grain Car Council (NGCC) arose from a proceeding instituted by the ICC in *National Grain Car Supply—Conference of Interested Parties,* Ex Parte No. 519. The NGCC was formed as a working group to facilitate private-sector solutions to problems arising in the railroad transportation of grain. The purpose of the meeting is to discuss the NGCC's future agenda and to elect permanent officers.

FOR FURTHER INFORMATION CONTACT: Lars Etzkorn, Telephone: (202) 927–6010, TDD: (202) 927–5721.

Vernon A. Williams,

Secretary.

[FR Doc. 95–22625 Filed 9–11–95; 8:45 am]

BILLING CODE 7035–01–P

DEPARTMENT OF JUSTICE

National Institute of Corrections

Task Force on Prison Construction Standardization and Techniques

ACTION: Notice of establishment of Task Force on Prison Construction Standardization and Techniques.

SUMMARY: In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. app. 2 (1972), and 41 CFR 101–6.1001–6.1035 (1992), the Director, National Institute of Corrections (NIC), with the concurrence of the U.S. Attorney General, is establishing a Task Force on Prison Construction Standardization and Techniques (TFPCST) for the purpose of evaluating and recommending new construction technologies, techniques, and materials to reduce prison and jail construction costs at the federal, state, and local levels and make construction more efficient.

The Task Force is authorized by Public Law 103–322, Section 20406 of Subtitle D, the Violent Crime Control and Law Enforcement Act of 1994. The specific provisions of the Act state that the Task Force will: (1) establish and recommend standardized construction plans and techniques for prison and jail construction; (2) evaluate and recommend new construction technologies, techniques, and materials to reduce prison and jail construction costs at the federal, state, and local levels and make construction more efficient; (3) disseminate the information to state and local officials involved in prison and jail construction; (4) promote the implementation of cost-saving efforts at the federal, state, and local levels; (5) evaluate and advise on the results and effectiveness of such cost-saving efforts as adopted and disseminate information on the results; and (6) to the extent feasible, certify the effectiveness of these cost-saving efforts.

MEMBERSHIP: In accordance with the provisions of P.L. 103–322, Section 20406 of Subtitle D, this Task Force will be composed of federal, state, and local officials experienced in the design and construction of prison and jail facilities and an equal number of architects, engineers, and construction

professionals from the private sector with experience in prison and jail design and construction.

The Task Force will consist of 15 members nominated primarily by relevant professional associations and state and local departments of corrections with recent significant construction activity. The Task Force will be advisory only and will report to the U.S. Attorney General through the Director of the National Institute of Corrections.

CONTACT PERSON: Michael A. O'Toole, National Institute of Corrections, Jails Division, 1960 Industrial Circle, Suite A, Longmont, CO 80501, (800) 995–6429.

TELEPHONE: (303) 682–0639, Fax: (303) 682–0469.

Morris L. Thigpen,

Director.

[FR Doc. 95–22534 Filed 9–11–95; 8:45 am]

BILLING CODE 4410–36–M

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Visual Arts and Museum Planning Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Visual Arts Panel (Overview/Planning Section) to the National Council on the Arts will be held on September 12–13, 1995. The panel will meet from 9:00 a.m. to 5:30 p.m. on September 12 and from 9:00 to 5:00 p.m. on September 13, in Room M–07, at the Nancy Hanks Center, 1100 Pennsylvania Avenue, N.W., Washington, D.C., 20506.

This meeting will be open to the public on a space available basis.

Any interested person may observe meetings or portions thereof, which are open to the public, and may be permitted to participate in the discussions at the discretion of the meeting chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the arts, 1100 Pennsylvania Avenue, NW Washington, D.C. 20506, 202/682–5532, TYY/TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Director of Council and Panel Operations, National Endowment for the Arts, Washington, D.C. 20506, or call 202/682–5788.

Dated: September 5, 1995.

Yvonne M. Sabine,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 95–22511 Filed 9–11–95; 8:45 am]

BILLING CODE 7537–01–M

National Endowment for the Arts; Partnership Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Partnership Advisory Panel (Local Arts Agencies Section) to the National Council on the Arts will be held on September 28–29, 1995. The panel will be held from 8:45 a.m. to 6:30 p.m. on September 28 and from 8:30 a.m. to 5:00 p.m. on September 29, in Room M–14, at the Nancy Hanks Center, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506.

This meeting will be open to the public on a space available basis.

Any interested person may observe meetings or portions thereof, which are open to the public and may be permitted to participate in the discussions at the discretion of the meeting chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW Washington, D.C. 20506, 202/682–5532, TYY/TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Director of Council and Panel Operations, National Endowment for the Arts, Washington, D.C. 20506, or call 202/682–5433.

Dated: September 5, 1995.

Yvonne M. Sabine,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 95–22513 Filed 9–11–95; 8:45 am]

BILLING CODE 7537–01–M

National Endowment for the Arts; Museum Advisory Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Museum Advisory Panel (Utilization/Professional Development Section B) to the National Council on the Arts will be held on September 19–22, 1995. The panel will meet from 9:00 a.m. to 7:00 p.m. on September 19 and from 9:00 a.m. to 5:30 p.m. on September 20–22, in Room 716, at the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

This meeting will be open to the public on a space available basis.

Any interested person may observe meetings or portions thereof, which are open to the public, and may be permitted to participate in the discussions at the discretion of the meeting chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682–5532, TTY/TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Director of Council and Panel Operations, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5788.

Dated: September 5, 1995.

Yvonne M. Sabine,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 95–22512 Filed 9–11–95; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978 (P.L. 95–541)

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received under the Antarctic Conservation Act of 1978, P.L. 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to these permit applications by October 6, 1995. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755,

Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT:

Nadene G. Kennedy at the above address or (703) 306–1031.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Public Law 95–541), has developed regulations that implement the ''Agreed Measures for the Conservation of Antarctic Fauna and Flora'' for all United States citizens. The Agreed Measures, developed by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest.

The applications received are as follows:

1. *Applicant:* William D. Fraser, Biology Department, Montana State University, Bozeman, Montana 59717, Permit Application No. 96–021.

Activity for Which Permit is Requested

Enter Specially Protected Area and Enter Site of Special Scientific Interest. The applicant requests permission to enter Litchfield Island (SPA #17) 3 times per week for 1–2 hours to census penguins and other seabirds breeding on the island. The island can be accessed safely and easily at times of the year when sea ice and bad weather make access to other penguin rookeries difficult or impossible. The applicant relies heavily on the ability to document weekly changes in penguin populations and breeding effort. This island has thus become a reliable source of long-term comparative data on penguin demography important to the hypotheses being tested by the LTER. All visits will be restricted to the unvegetated parts of the island.

In addition, the applicant would also like to enter Biscoe Point, Anvers Island (SSSI #20) on 5 separate occasions to census penguins and other seabirds. Some penguins banded as chicks are not returning to their natal colonies, but are instead moving to colonies on islands quite distant from Palmer. The applicant needs to document how pervasive this trend is by finding previously banded birds so as to adequately incorporate them into data on survival and recruitment.

Location

SPA #17—Litchfield Island, and SSSI #20—Biscoe Point, Anvers Island

Dates

October 1, 1995–May 31, 1998

2. *Applicant:* William D. Fraser, Biology Department, Montana State University, Bozeman, Montana 59717, Permit Application No. 96–022.

Activity for Which Permit is Requested

Taking. The applicant proposes to continue work associated with the Long-Term Ecological Research (LTER) on the Antarctica Marine Ecosystem project studying the relating variability in seabird reproductive success, survival and recruitment to fluctuations in certain biotic and abiotic features in their environment. This work involves censusing populations; marking, weighing and measuring adults, chicks and eggs; obtaining diet samples; and placing radio transmitters on some individuals to develop profiles on foraging efforts. As in the past, all seabirds involved in the research will be released unharmed.

Location

Palmer Station vicinity and nearby islands accessible by zodiac

Dates

October 1, 1995–May 31, 1998

3. *Applicant:* William D. Fraser, Biology Department, Montana State University, Bozeman, Montana 59717, Permit Application No. 96–023.

Activity for Which Permit is Requested

Taking. The applicant requests permission to tag 200 Adelie penguins using the subcutaneous tag method. The tagging of penguins is part of a long-term ecological research (LTER) program studying the relating variability in seabird reproductive success, survival and recruitment to fluctuations in certain biotic and abiotic features in their environment.

Location

Palmer Station vicinity and nearby islands

Dates

October 1, 1995—May 31, 1998

4. *Applicant*, Colin Harris, International Center for Antarctic Information and Research (ICAIR), P.O. Box 14–199, Orchard Road, Christchurch, New Zealand, Permit Application No. 96–013.

Activity for Which Permit is Requested

Enter Sites of Special Scientific Interest. The applicant proposes to enter the Arrival Heights and Cape Crozier Sites of Special Scientific Interest to survey ground control points needed to prepare up-to-date and detailed site maps for these areas. The work involves obtaining precise measurements of up to 6 ground control points at each site. In addition aerial photography above each control point will be necessary so the control points can be transferred to existing aerial photography for each site. Access to sites will follow restrictions outlined in the management plans for each site.

Location

SSSI #2—Arrival Heights, Hut Peninsula, Ross Island, and SSSI #4—Cape Crozier, Ross Island

Dates

November 1, 1995—January 31, 1996

Nadene G. Kennedy,

Permit Office, Office of Polar Programs.

[FR Doc. 95–22556 Filed 9–11–95; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–287 and 50–388]

Pennsylvania Power & Light Company, Susquehanna Steam Electric Station, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuing an amendment to Susquehanna Steam Electric Station, Units 1 and 2, Technical Specifications to permit the implementation of an increase in the allowable exposure of Siemens' 9×9–2 fuel from 40 GWD/MTU to 45 GWD/MTU. Pennsylvania Power and Light Company (PP&L) (the licensee), on May 31, 1994, submitted to the Commission for review, Topical Report PL–NF–94–005–P, ''Technical Basis for SPC 9×9–2 Extended Fuel Exposure at Susquehanna SES.'' This report provided a technical justification for the increased fuel burnup and the staff subsequently approved the report as indicated in its letter to PP&L dated December 15, 1994.

Environmental Assessment

Identification of the Proposed Action

The proposed action would amend the Susquehanna Steam Electric Station (SSES), Units 1 and 2, Technical Specifications (TS) to permit the implementation of an increase in the allowable exposure of Siemens' 9×9–2 fuel from 40 GWD/MTU to 45 GWD/

MTU. The proposed action is in accordance with the licensee's application for amendment dated February 2, 1995.

The Need for the Proposed Action

NRC approval of this TS change, as applied to the Unit 1, Cycle 9, and Unit 2, Cycle 8, will establish a new, higher fuel burnup rod-average limit of 45 MWD/MTU and will permit the licensee to continue to operate the plant through the end of each of these specified cycles, exceeding the current fuel burnup limit of 40 GWD/MTU, without affecting the safe operation of each reactor.

Environmental Impacts of the Proposed Action

The Commission completed its evaluation of the proposed action and the above referenced topical report and found it to be acceptable. In addition the TS changes implementing the higher fuel burnup limit have also been found to be acceptable. The safety considerations associated with extended irradiation of nuclear fuel have been evaluated by the NRC staff and the staff has concluded that such changes would not adversely affect plant safety. The proposed changes have no adverse affect on the probability of any accident. The increased burnup may slightly change the mix of fission products that might be released in the event of a serious accident, but such changes would not significantly affect the consequences of serious accidents. Routine radiological effluents are not affected. As a result, there is no increase in individual or cumulative radiation exposure.

The environmental impacts of transportation resulting from the use of higher enrichment and extended irradiation are discussed in the staff assessment entitled, ''NRC Assessment of the Environmental Effects of Transportation Resulting from Extended Fuel Enrichment and Irradiation.'' This assessment was published in the **Federal Register** on August 11, 1988 (53 FR 30355), as corrected on August 24, 1988 (53 FR 32322), in connection with the Shearon Harris Nuclear Power Plant, Unit 1: Environmental Assessment and Finding of No Significant Impact. As indicated therein, the environmental cost contribution of an increase in fuel enrichment of up to 5 weight percent U–235 and irradiation limits of up to 60 Gigawatt Days per Metric Ton (GWD/MT) are either unchanged, or may in fact be reduced from those summarized in Table S–4 as set forth in 10 CRF 51.52(c). These findings are applicable to the proposed increase in the increase in the allowable exposure of Siemens' 9×9–2 fuel for the Susquehanna units. Accordingly, the Commission concludes that this proposed action would result in no significant radiological environmental impact.

With regard to potential nonradiological impacts, the proposed change will in no way affect environs located outside the restricted area as defined in 10 CFR Part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed change in the fuel exposure limit.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Susquehanna Steam Electric Station, Units 1 and 2.

Agencies and Persons Consulted

In accordance with its stated policy, on July 7, 1995, the staff consulted with the Pennsylvania State official, David Ney of the Department of Radiation Protection, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated February 2, 1995, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes Barre, Pennsylvania 18701.

Dated at Rockville, Maryland, this 5th day of September 1995.

For the Nuclear Regulatory Commission.

John Stolz,

Director, Project Directorate I–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95–22613 Filed 9–11–95; 8:45 am]

BILLING CODE 7590–01–P

NEA/CNRA/CSNI International Workshop on Steam Generator Tube Integrity in Nuclear Power Plants; Notice of NEA Meeting

SUMMARY: An International Workshop on Steam Generator Tube Integrity in Nuclear Power Plants (NPPs) will be convened by the Committee on Nuclear Regulatory Activities (CNRA) and the Committee on the Safety of Nuclear Installations (CSNI) of the OECD Nuclear Energy Agency (NEA). The NEA announcement and call for participation is attached. The NRC is a member of these committees and NRC staff and contractors will participate in the workshop. The NEA is seeking other participants from the United States. Those interested in participating, should submit the registration form directly to the NEA at the address noted on the form. The deadline for registration has been extended to September 30, 1995.

Dated at Rockville, Maryland, on September 6, 1995.

For the Nuclear Regulatory Commission.

Michael E. Mayfield,

Chief, Electrical, Materials & Mechanical Engineering Branch, Division of Engineering Technology, Office of Nuclear Regulatory Research.

NEA/CNRA/CSNI International Workshop on Steam Generator Tubing Integrity in Nuclear Power Plants

SECOND ANNOUNCEMENT AND CALL FOR PARTICIPATION

1. Organization and Host

An Intentional Workshop on Steam Generator Tube Integrity in Nuclear Power Plants (NPPs) will be convened by the Committee on Nuclear Regulatory Activities (CNRA) and the Committee on the Safety of Nuclear Installations (CSNI) of the OECD Nuclear Energy Agency (NEA). The workshop will be hosted by the Office of Nuclear Regulatory Research of the United States Nuclear Regulatory Commission. The four-day workshop will be conducted in suburban Chicago, Illinois near Argonne National Laboratory on Monday, October 30 through Thursday, November 2, 1995.

2. Background and Purpose

Steam generator tubing has exhibited a wide variety of degradation mechanisms. As a result, a considerable amount of effort has been expended to address the safety and

economic implications of these degradation processes. These efforts have resulted in improved inspection techniques, the development of defect-specific tube repair criteria, enhanced primary-to-secondary leakage monitoring programmes, and implementation of various preventative and corrective measures. Nevertheless, steam generator tube integrity continues to be a major issue for nuclear power plant operators, vendors, and regulators, and efforts continue to be directed at addressing issues related to steam generator tube integrity.

The purpose of this workshop is to provide a unique forum for the exchange of information on aspects related to steam generator tube integrity. Participants will have the opportunity to meet their counterparts from other countries and organizations to discuss regulatory and research issues on this topic. Participants will develop conclusions and recommendations regarding these issues and, hopefully, identify methods to improve their own programs.

3. Workshop Format

The workshop will provide an international forum for the exchange of operating experience and ongoing activities with respect to steam generator tube integrity. Emphasis will be placed on regulatory and safety issues. Participation in this NEA specialists meeting/workshop is limited to contributing experts nominated by the NEA/CNRA/CSNI representative from their country. Prospective participants are asked to contact their representative and provide information on their specific areas of interest and expertise and to indicate the workshop session to which they would contribute.

The workshop format includes an opening plenary session, parallel discussion sessions on five technical areas, and a concluding summary and integration session. In order to gain the most value from their participation, participants will be expected to be present for the entire workshop and to contribute to one of the working sessions.

The opening plenary session will begin with up to eight invited presentations on international steam generator regulatory practices and issues. The second part of the plenary session will consist of comprehensive technical overviews by international authorities in the areas of steam generator tubing degradation, integrity, and inspection.

Following the opening plenary session, the workshop participants will be divided into five parallel working sessions dealing with the following topics: (1) tubing degradation, (2) tubing inspection, (3) tubing integrity, (4) preventative and corrective measures, and (5) operational aspects and risk analysis. Two pre-selected facilitators will lead each of the five working sessions to promote and stimulate the discussions. Under the leadership of these facilitators, each workshop session will develop a list of conclusions and recommendations for their technical area. Prospective participants who are interested in serving as a facilitator should indicate this interest when they register.

The concluding session will begin with presentations by each of the facilitators summarizing the findings and recommendations from his or her working session. An integration session will follow in which the facilitators and CNRA representatives will develop and present overall summary conclusions and recommendations on regulatory and research issues relevant to regulators.

4. Provisional Programme

The overall schedule of events for the workshop is given in Table 1. The plenary session will take place on the first day, followed by five parallel workshop session on the second day and the morning of the third day. The fourth day will consist of the technical summary and integration sessions. Workshop attendees will be given an opportunity to tour selected Argonne facilities on the afternoon of the third day.

The presentations in the first plenary session will be structured to provide an international overview of key aspects of steam generator tubing degradation mechanisms, inspection, integrity, preventative/corrective measures, and operation aspects/risk analysis. Matrices outlining the contents of these presentations are given in Table 2.

As stated above, the five parallel working sessions, each lead by two pre-selected facilitators, will deal with the following topics: (1) tubing degradation, (2) tubing inspection, (3) tubing integrity, (4) preventative and corrective measures, and (5) operational aspects and risk analysis. The topics to be covered in these sessions and the specific aspects of these topics to be considered are presented in Table 3.

5. Programme Committee

The workshop is being organized under the direction of a Programme Committee made up of the following members:

Dr. Joseph Muscara, United States (chairman)
Mr. Kenneth J. Karwoski, United States
Dr. William J. Shack, United States
Ms. Dominique Moussebois, Belgium
Mr. Guy Turluer, France
Mr. Toshihiko Iwase, Japan
Dr. Jose M. Figueras, Spain
Mr. Gert Hedner, Sweden
Mr. Jean-Pierre Clausner, NEA Secretariat

6. Meeting Organization, Participation, Deadlines

Language. The working language of the workshop will be English. No translation service will be available. Good command of the English language will be necessary to fully benefit from the workshop activities.

Participation. Participation in the meeting is expected from nuclear regulatory bodies, nuclear power utilities, research laboratories, owner's groups, and vendors. Participants, including those who wish to submit papers, are asked to fill out the attached participation form and return it through their country's NEA/CNRA/CSNI representative to the NEA secretariat for planning purposes as early as possible and not later than 15 September 1995:

Mr. Jean-Pierre Clausner, Nuclear Safety Division, OECD Nuclear Energy Agency, Le Seine St. Gerrnain, 12, Bd. des Iles, 92130 Issy-les-Moulineaux, France. Email: Jean-Pierre.Clausner@OECD.org, Tel: 33 145 2410 54, Fax: 33145241110.

Registration Fee. A registration fee of $75 will be charged. This fee will cover the costs of a reception on the evening of Sunday, October 29 and a banquet on Tuesday, October 31, as well as coffee breaks and refreshment.

Manuscripts and publication of proceedings. To permit reproduction and distribution of the papers at the beginning of the workshop, speakers are requested to send their photo-ready original manuscript no later than October 1, 1995 to: Dr. Dwight Diercks, Energy Technology Division, Argonne National Laboratory, 9700 South Cass Avenue, Argonne, IL 60439, USA.

If the October 1 deadline for paper submittal should prove impractical, authors are asked to bring 100 copies of their paper to the workshop.

Technical papers and the conference proceedings will be published following the completion of the workshop.

Workshop location. The workshop will be held at the Regency Hyatt Oak Brook Hotel where block of room is being made available at a rate of U.S. $97.20 for single or double occupancy. To receive this rate, attendees must make reservations directly with the hotel on or before October 25, 1995 and must specify that their reservations are for the ''steam generator workshop.'' Hotel information is as follows:

Hyatt Regency Oak Brook Hotel, 1909 Spring Road, Oak Brook, IL 60521 USA, Telephone: 1 708–573–1234, Fax: 1 708–573–1909

Other hotels in the area include the following:

Marriott Hotel, 1401 West 22nd Street, Oak Brook, IL 60521 USA, (across the street from the Hyatt Regency Oak Brook Hotel), Telephone: 708–573–8555, Fax: 708–573–1026, Rates: $139 per night, one or two persons per room

Drake Hotel, 2301 South York Road, Oak Brook, IL 60521 USA, (Located at intersection of York Road and Cermak Rd., 2.2 miles (3.5 km) from the Hyatt Regency Oak Brook Hotel). Telephone: 708–574–5700, Fax: 708–574–0830, Rates: $89 per night (one person), $99 (two persons) including continental breakfast

Hampton Inn, 222 East 22nd Street, Lombard, IL 60148, (Located 5 miles (8 km) from the Hyatt Regency Oak Brook Hotel),Telephone: 708–916–9000, Fax: 708–916–8015, Rates: $64 per night (one person), $69 (two persons), including continental breakfast

Transportation. The Hyatt Regency Oak Brook and nearby hotels are most conveniently reached from O'Hare International Airport by rental car or limousine. All of the major car rental agencies are represented at O'Hare, and car rental arrangements may be made with them

directly. Arrangements for limousine service must be made in advance, providing the flight number and the anticipated time of arrival. The following service is suggested: United Limousine Service, 432 Ogden Avenue, Downers Grove, IL 60515, Telephone: 708–969–3865, Fax: 708–969–8976.

The approximate cost is $15.50 (plus tip), but the Argonne National Laboratory rate must be requested when making reservations. Upon arrival at the airport, the traveler must 1–800–331–9037 for actual pickup (the limousine will be waiting nearby). Taxi service between O'Hare and Oak Brook is also available, but the cost is usually higher than for a limousine.

Other activities. An optional tour of selected technical facilities at Argonne National Laboratory is planned for the afternoon of Wednesday, November 1. Arrangements for participation in this tour may be made at the workshop.

The Hyatt Regency Oak Brook Hotel is approximately 14 miles (22 km) from O'Hare International Airport and 18 miles (29 km) from downtown Chicago. It is located immediately adjacent to the Oak Brook shopping center, a very large and modern facility offering a wide variety of shops and restaurants.

Nearby Chicago is the largest city in the central United States and a major transportation, commercial, and manufacturing center. Chicago is noted for its outstanding museums, including the Field Museum of Natural History, the Art Institute of Chicago, the Museum of Science and Industry, the Adler Planetarium, and the Shedd Aquarium. It is also features the Chicago Symphony Orchestra, the shops along North Michigan Avenue, and the parks along the shores of Lake Michigan. Chicago is an ethnically diverse city that offers a rich variety of cultural attractions, restaurants, and activities.

BILLING CODE 7590–01–P

Table 1. Overall Schedule of Workshop Events

	October 30	October 31	November 1	November 2
Morning	Opening & welcome Plenary Session, Part 1: International regulatory practices and issues	Workshop (five parallel sessions) ⇓ ⇓ ⇓ ⇓ ⇓	Workshop (five parallel sessions) ⇓ ⇓ ⇓ ⇓ ⇓	Technical summary and conclusions from each workshop session
Afternoon	Plenary Session, Part 2: Technical (degradation, integrity, inspection)	⇓ ⇓ ⇓ ⇓ ⇓ ⇓ ⇓	Tour of ANL facilities	Integration session by CNRA representatives and facilitators to develop summary conclusions and recommendations (regulatory and research) relevant to regulators

Table 2. Content of Plenary Session, Part 1 Presentations

Degradation Mechanisms	OBSERVED	CURRENT	PRIORITY	UNDERSTANDING	FUTURE ACTIONS
ID SCC, circumferential, RTZ	*	*	**	**	***
OD SCC, circumferential, RTZ	*	*	**	**	***
ID axial PWSCC	*	*	**	**	***
ODSCC at tube support plates	*	*	**	**	***
Sleeved tube degradation	*	*	**	**	***
Freespan cracking	*	*	**	**	***
Others (specify):	*	*	**	**	***

* Yes,No; ** High, Medium, Low; *** Research, Regulatory, Vendor

Table 2. (Cont'd.)

Inspection	TECHNIQUE	DETECTION	SIZING	CHARACTERISATION OF INTEGRITY	FUTURE ACTIONS
ID SCC, circumferential, RTZ	*	**	**	**	***
OD SCC, circumferential, RTZ	*	**	**	**	***
ID axial PWSCC	*	**	**	**	***
ODSCC at tube support plates	*	**	**	**	***
Sleeved tube degradation	*	**	**	**	***
Freespan cracking	*	**	**	**	***
Others (specify):	*	**	**	**	***

* Bobbin coil, Rotating pancake coil, Ultrasonics, Other

** High, Medium, Low; *** Research, Regulatory, Vendor

Table 2. (Cont'd.)

Integrity	REPAIR LIMIT	BASIS	CONFIDENCE ON GROWTH RATE	CGR BASIS	CONFIDENCE ON BURST PRESSURE PREDICTION	CONFID. ON LEAK RATE	PROBABILISTIC / DETERMINISTIC	FUTURE ACTIONS
ID SCC, circumferential, RTZ	*	**	***	#	***	**	##	###
OD SCC, circumferential, RTZ	*	**	***	#	***	**	##	###
ID axial PWSCC	*	**	***	#	***	**	##	###
ODSCC at tube support plates	*	**	***	#	***	**	##	###
Sleeved tube degradation	*	**	***	#	***	**	##	###
Freespan cracking	*	**	***	#	***	**	##	###
Others (specify):	*	**	***	#	***	**	##	###

* Voltage, Crack length, Crack depth; ** Physically based, Correlation;
*** High, Medium, Low; # Laboratory, Field; ## Probabilistic, Deterministic;
Research, Regulatory, Vendor

Table 2. (Cont'd.)

Preventative/Corrective Measures	APPLIED/USED	EFFECTIVENESS	QUALIFIED	FUTURE ACTIONS
Sludge lancing	*	**	*	***
Chemical cleaning	*	**	*	***
Sleeving	*	**	*	***
Roto/shot peening	*	**	*	***
Water chemistry	*	**	*	***
Others (specify):	*	**	*	***
	*	**	*	***

* Yes, No; ** High, Medium, Low; *** Research, Regulatory, Vendor

Table 2. (Cont'd.)

Operation Aspects/ Risk Analysis	APPLIED/USED	ACCURACY/	EFFECTIVENESS	LIMITS	FUTU. ACTIONS
Leak detection:					
N-16	*	**		***	#
Off-gass analysis	*	**		***	#
Blowdown analysis	*	**		***	#
Grab samples	*	**		***	#
Others (specify):	*	**		***	#

* Yes, No; ** High, Medium, Low;
*** Basis for action levels/limits: LBB, Dose concerns, Tube integrity, Other: Research, Regulatory, Vendor

Table 3. Topic to be Covered in Five Parallel Workshop Sessions

Degradation

Modes of current Interest			Characterisation of Mode
Primary:	axial	)	
	circumferential	)	Mechanical Properties
	crack network	)	Stress/Enironment
Secondary:	axial	>	What is Known
	circumferential	)	Initiation/Propagation
	crack network	)	Predictive Methodologies
Fatigue		)	Crevice Chemistry (Secondary Side Modes)

Inspection

Methods (EC, UT, others)	)	Criteria - Confidence level, true state of sample,
Capabilities	)	pass-fail.
Quantification	>	Definition and extent of inspection programme
Sizing	)	(varies with plant, inspection requirements,
Performance Demonstration	)	expertise, etc.)
Sleeving and other repairs	)	

Integrity

Structural Integrity	)	Rationale for limits
circumferential cracks	)	Repair criteria
PWSCC at RTZ	)	NDE reliability
networks/complex cracks	>	Growth rates
Leakage estimates (empirical correlation	)	Margins/uncertainty
vs. physically based approaches)	)	LBB/normal operating conditions
Integrity assessment by empirical correlation	)	TSP integrity/constraint
vs. physically based approaches	)	Severe accidents

Preventative and Corrective Measures

Experience with 690, 800, Monel 400,	)	Direct tube repairs
Sleeving	)	Water chemistry
Shot/roto-peening	)	Molar ratio control
Ni plating	>	Boric acid additions
Sludge lancing	)	Zn additions
Chemical cleaning	)	Phosphate/AVT
Direct Tube repairs	)	Plugging

Operational Aspects and Risk Analysis

Multiple tube rupture	)	Consequence analysis
Leakage monitoring	>	Operating procedures
Tube integrity	)	Single tube rupture
Dose concenrs	)	Multiple tube rupture

O E C D CNRA/CSNI
NUCLEAR ENERGY AGENCY

REGISTRATION FORM
CNRA/CSNI International Workshop on Steam Generator Tube Integrity in NPPs

HOSTED BY THE USNRC/RES, IN ARGONNE, ILLINOIS
30 OCTOBER - 2 NOVEMBER 1995

NAME: _____

POSITION: _____
ORGANIZATION: _____

_____

ADDRESS: _____

_____

_____

TEL: _____ **FAX:** _____

I register for the following working session: (please refer to table 3 for topics covered in each session)

1) Tubing Degradation
2) Tubing Inspection
3) Tubing Integrity
4) Preventive and Corrective Measures
5) Operational Aspects and Risk Analysis

I intend to make a presentation **YES ( ) NO ( )**
(Please note that presentations are intended to support the technical discussion during the working session. Therefore, they should be limited in time (10 to 15 mn) and strictly adhere to one topic of the working session).

Title:

I volunteer to serve as a moderator (facilitator) of a Working Session

Please circle which session: 1 2 3 4 5

Please return before September 15, 1995 to:
Mr. Jean-Pierre Clausner **Tel: 33 1 45 24 10 54**
OECD Nuclear Energy Agency **Fax: 33 1 45 24 11 10**
Le Seine St Germain
12, Boulevard des Iles
92130 Issy-les-Moulineaux, France

[FR Doc. 95–22593 Filed 9–11–95; 8:45 am]
BILLING CODE 7590–01–C

NUREG: Issuance, Availability

The Nuclear Regulatory Commission has issued Revision 5 of NUREG–1307 entitled ''Report on Waste Burial Charges.'' The report provides power reactor licensees updated information to allow them to adjust periodically the projected waste burial cost component when estimating the cost of decommissioning their nuclear plants.

Copies of NUREG–1307, Revision 5 may be purchased from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013–7082. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161. A copy is also available for inspection and/or copying for a fee in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

For further information contact George J. Mencinsky, Division of Regulatory Applications, Office of Nuclear Regulatory Research, Mail Stop T–9 F31, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–6206.

Dated at Rockville, Maryland, this 1st day of Sept. 1995.

For the Nuclear Regulatory Commission.

Bill M. Morris,

Director, Division of Regulatory Applications, Office of Nuclear Regulatory Research.

[FR Doc. 95–22615 Filed 9–11–95; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–36186; International Series Release No. 848; File No. SR–CBOE–95–46]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Listing and Trading of Index Warrants on the Mexico 30 Index

September 5, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. § 78s(b)(1), notice is hereby given that on August 21, 1995, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to provide for the listing and trading on the Exchange of warrants on the Mexico 30 Index (''Mexico Index'' or ''Index''), a cash-settled, broad-based index.[1]

The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to permit the Exchange to list and trade cash-settled index warrants based on the Mexico 30 Index. The Index is comprised of 30 representative stocks of the Mexican Stock Exchange (''Bolsa'').[2] CBOE believes that warrants on the Index will provide investors with a low-cost means of participating in the performance of the Mexican economy and a hedging mechanism against the risk of investing in that economy.

Index Warrant Trading. The proposed warrants will be direct obligations of their issuer subject to cash-settlement in U.S. dollars, and either exercisable throughout their life (*i.e.*, American-style) or exercisable only on their expiration date (if not exercisable prior to such date). The holder of a warrant structured as a ''put'' would receive payment in U.S. dollars to the extent that the Index value has declined below a pre-stated cash settlement value. Conversely, holders of a warrant structured as a ''call'' would, upon exercise or at expiration, receive payment in U.S. dollars to the extent that the Index value has increased above the pre-stated cash settlement value. If ''out-of-the-money'' at the time of expiration, the warrants would expire worthless.

Warrant Listing Standards and Customer Safeguards. On August 28, 1995, the Commission approved the Exchange's generic warrant filing ''Establishment of Uniform Listing and Trading Guidelines for Stock Index, Currency and Currency Index Warrants'' (SR–CBOE–94–34) (''Index and Currency Warrant Filing''). The listing and trading of Index warrants on the Mexico 30 Index will be subject to these guidelines and rules.

Index Design. The Index was designed by and is maintained by the CBOE and the Chicago Mercantile Exchange (''CME''). CBOE represents that the 30 stocks comprising the Index were selected for their high market capitalization and their high degree of liquidity, and further believes that they are representative of the industrial composition of the broader Mexican equity market. The Mexico Index is composed of 15 broad industry groups, including building materials, diversified holding companies, and telecommunications.

The Index is weighted by the market capitalization of the component stocks, however, at the time of a semi-annual review (occurring after the close on expiration Fridays in December and June) the Index will be adjusted, if necessary, to ensure that no single component shall have a weight in the Index greater than 25%. For example, on June 16, 1995, the most recent review date, Telefonos de Mexico (''TMX'') would have had a weight of 30.41% of the Index. To reduce TMX's weight, the Exchange reduced the number of outstanding TMX shares used in the calculation of the Index from 8.0375 billion to 6.1303 billion.

The total capitalization of the Index as of July 31, 1995 was $46.21 billion, which represents 49.35% of the overall capitalization of the Mexican Bolsa. The median capitalization of the stocks in the Index on July 31, 1995, was 4.507 billion Pesos ($737 million at the exchange rate of 6.115 pesos per dollar prevailing on July 31, 1995). The

[1] CBOE is concurrently seeking approval to list and trade options on the CBOE Mexico 30 Index. For a more detailed description of the CBOE Mexico 30 Index and CBOE Mexico 30 Index options, *see* Securities Exchange Act Release No. 36160 (August 28, 1995).

[2] The components of the Index are Alfa SA–A; Apasco SA; Grupo Casa Autrey; Banacci-B; Grupo Carso-Al; Controla Com M–B; Cemex SA–B; Cifra SA–C; Desc SA–B; Empresas Moderna-A; Fomento Econ M–B; Grupo Embotelladoro Mexico; Grupo Financiero Bancomer-B; Grupo Financiero Serfin-B; Grupo Gigante; Grupo Modelo-C; Grupo Mexico-B; Grupo Tribasa-CPO; Hylsamex SA–BCP; Empresas ICA; Iusacell; Kimberly-Clark M–A; Coca-Cola Femsa; Grupo Industrial Maseca-B; Grupo Sidek-B; Tubos De Acero; Telefonos De Mexico-L; Tolmex SA–B2; Grupo Telev-CPO; and Vitro SA.

average market capitalization of these stocks was $1.54 billion on the same date (using the same rate of exchange). The individual market capitalization of these stocks ranged from $156 million (Grupo Sidek-B) to $13.3 billion (Telmex) on July 31, 1995. The largest stock accounted for 23.61% of the Index, while the smallest accounted for 0.36%. The top five stocks in the Index by weight accounted for 55.02% of the Index. CBOE represents that upon each semi-annual review of the Index, the Exchange shall make any necessary modifications to ensure that the top three weighted stocks in the Index by weight may not account for more than 45% of the Index at the time of a semi-annual review.[3] The average daily volume in the component securities for the period from February 1995 through July 1995, ranged from a low of approximately 9,270 shares to a high of 14,123,392 shares, with an average daily trading volume for all components of the Index of approximately 1,479,390 shares per day.

Calculation. The value of the Index is determined by multiplying the price of each stock times the number of shares outstanding, adding those sums and dividing by a divisor which gives the Index a value of 200 on its base date of January 3, 1995. This divisor is adjusted for pertinent changes as described below in the section titled ''Maintenance.'' The Index had a closing value of 203.07 on July 31, 1995.

Maintenance. The Index will be maintained by the CBOE and CME. To maintain continuity of the Index, the divisor of the Index will be adjusted to reflect certain events relating to the component stocks. These events include, but are not limited to, changes in the number of shares outstanding, spin-offs, certain rights issuances, and mergers and acquisitions. The composition of the Index will be reviewed periodically and the Exchanges may make component changes at any time.

Bridge Information Systems (''Bridge'') will calculate the value of the Index every fifteen seconds throughout the trading day and disseminate the Index value through the Options Price Reporting Authority (''OPRA''). Bridge obtains quotes and trade information on a real-time basis directly from the Bolsa through an electronic feed. Accordingly, the value of the Index will be based upon the prices of the components as traded or quoted on the Bolsa.

Surveillance Agreements. The Exchange expects to apply its existing warrant surveillance procedures to Index warrants. In addition, the Exchange is aware of a Memorandum of Understanding (''MOU'') between the Commission and the Comision Nacional Bancaria y de Valores. This MOU will enable the Commission to obtain information concerning the trading of the component stocks of the Mexico 30 Index. The Exchange also will make every effort to enter into an effective surveillance agreement with the Bolsa.

2. Statutory Basis

CBOE believes the proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) in particular in that it will permit trading in warrants based on the Mexico 30 Index pursuant to rules designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade, and thereby will provide investors with the ability to invest in warrants based on an additional index.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–95–46 and should be submitted by October 3, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–22535 Filed 9–11–95; 8:45 am]

BILLING CODE 8010–01–M

[3] As of July 31, 1995, the top three stocks represented 43.6% of the weight of the Index.

[4] 17 CFR 200.30–3(a)(12) (1994).

[Release No. 34–36185; File No. SR–CBOE–95–43]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Listing of Flexible Exchange Options on Specified Equity Securities

September 5, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 15, 1995, the Chicago Board Options Exchange (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to amend its rules to provide for the listing and trading of Flexible Exchange Options (''FLEX Options'') on specified equity securities (''FLEX Equity Options''). The text of the proposed rule change is available at

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1994).

the Office of the Secretary, the CBOE, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to expand the CBOE's FLEX Options rules [3] to permit the introduction of trading in FLEX Options on specified equity securities that satisfy the Exchange's listing standards for equity options. Currently, FLEX Options are listed and traded on the CBOE in respect of several broad market indexes of equity securities (''FLEX Index Options'').[4] The Exchange states that because of the success of these products in meeting the needs of investors for greater flexibility in designating the terms of index options within the parameters of the CBOE's FLEX Options rules, the Exchange is now proposing to provide comparable flexibility to investors in equity options. The CBOE believes that by extending the FLEX Options program in this way, the result will be to further broaden the base of institutional investors that use FLEX Options to manage their trading and investment risk.

For the most part, the CBOE represents that the current rules governing FLEX Index Options will apply unchanged to FLEX Equity Options. Certain changes to the CBOE's existing FLEX Options rules, however, are proposed to deal with the special characteristics of FLEX Equity Options. Specifically, the CBOE proposes to add several new definitions to Rule 24A.1 to accommodate the introduction of trading in FLEX Equity Options,[5] and to revise certain other CBOE rules describing FLEX Options and governing their trading, as described below.

The CBOE proposes to revise Rule 24A.4 concerning the terms of FLEX Options to make specific reference to the terms of FLEX Equity Options. Specifically, FLEX Equity Options will have (1) a maximum term of three years, (2) a minimum size of 250 contracts for an opening transaction in a new series, and and (3) a minimum size of 100 contracts for an opening or closing transaction in a series in which there is already open interest (or any lesser amount in a closing transaction that represents the remaining underlying size). The minimum value size for FLEX Quotes [6] by a single Market-Maker in response to a Request for Quotes [7] in FLEX Equity Options is the lesser of 100 contracts or the remaining underlying size in a closing transaction.

The CBOE also proposes to allow exercise prices and premiums for FLEX Equity Options to be stated in dollar amounts or percentages, with premiums rounded to the nearest minimum tick and exercise prices rounded to the nearest one-eighth. The exercise of FLEX Equity Options will be by physical delivery, and the exercise-by-exception procedures of The Options Clearing Corporation (''OCC'') will apply.[8]

The CBOE represents that the trading procedures applicable to FLEX Equity Options will be mostly the same as those that apply to FLEX Index Options, except that unless the Exchange's Market Performance Committee decides otherwise, there will not be FLEX Appointed Market-Makers [9] who are obligated to respond to Requests for Quotes in respect of FLEX Equity Options as there are in respect of FLEX Index Options. Instead, the CBOE proposes to have five or more ''FLEX Qualified Market-Makers'' appointed to each class of FLEX Equity Options who must satisfy essentially the same standards of qualification as FLEX Appointed Market-Makers (including the requirement for a specific clearing member letter of guarantee for FLEX Options),[10] and who may, but without obligation to do so, enter quotes in response to a Request for Quotes in a class of FLEX Equity Options in which the Market-Maker is qualified. In addition, FLEX Qualified Market-Makers will be obligated to make responsive quotes when called upon to do so by a FLEX Post Official [11] in the interests of a fair and orderly market. Quotes of FLEX Qualified Market-Makers must satisfy the minimum size parameters discussed above for FLEX Equity Options and must be entered within the time periods provided in the CBOE's FLEX Options Rules.[12]

The CBOE represents that the rules governing priority of bids and offers for FLEX Equity Options are also much the same as those that apply to FLEX Index Options, except that in the case of FLEX Equity Options, no guaranteed minimum right of participation is provided to an Exchange member that initiates a Request for Quotes and indicates an intention to cross or act as principle on the trade; [13] as to such a member the Exchange's regular rules of price and time priority shall apply.[14]

The CBOE represents that position limits and exercise limits for FLEX Equity Options are proposed to be larger than the limits applicable to Non-FLEX Equity Options, in the same manner and for the same reasons that the position and exercise limits for FLEX Index Options are larger than those applicable to Non-FLEX Index Options. Position and exercise limits for FLEX Equity Options are proposed to be five times the limits for Non-FLEX Equity Options on the same underlying security. This compares with limits for OEX FLEX Index Options that are eight times the limits for Non-FLEX OEX Options and limits for SPX FLEX Index Options that are 4.44 times the limits for Non-FLEX SPX Options. Also, as is currently the case for FLEX Index Options, it is proposed that there will be no aggregation of positions or exercises in FLEX Equity Options with positions or exercises in Non-FLEX Equity Options for purposes of position or exercise limits. The CBOE believes that the larger position and exercise limits for FLEX Options and the nonaggregation of positions and exercises in FLEX Options

[3] *See* CBOE Rules 24A.1 through 24A.17.

[4] Specifically, the Commission has approved the listing by the CBOE of FLEX Options on the S&P 100 (''OEX''), S&P 500 (''SPX''), Nasdaq 100, and Russell 2000 Indexes. *See* Securities Exchange Act Release Nos. 31920 (February 24, 1993), 58 FR 12280 (March 3, 1993) (approval of FLEX Options on the SPX and OEX indexes), 34052 (May 12, 1994), 59 FR 25972 (May 18, 1994) (approval of FLEX Options on the Nasdaq 100 index), and 32694 (July 29, 1993), 58 FR 41814 (July 5, 1993) (approval of FLEX Options on the Russell 2000 index).

[5] In addition to the term FLEX Equity Options, the proposal also defines the terms ''FLEX Index Options,'' ''Non-FLEX Options,'' ''Non-FLEX Equity Option,'' and, ''Applicable Floor Procedure Committee.''

[6] *See* CBOE Rule 24A.1(f).

[7] *See* CBOE Rule 24A.1(k).

[8] OCC Rule 805 provides for automatic exercise of in-the-money options at expiration without the submission of an exercise notice to the OCC if the price of the security underlying the option is at or above a certain price (for calls) or at or below a certain price (for puts); and the non-exercise of an option at expiration if the price of the security underlying the option does not satisfy such price levels. *See* OCC Rule 805.

[9] *See* CBOE Rule 24A.9.

[10] *See, e.g.*, CBOE Rules 24A.9, 24A.13, 24A.14, and 24A.15.

[11] *See* CBOE Rule 24A.1(e).

[12] *See* CBOE Rule 24A.5.

[13] *See* CBOE Rule 24A.5(c).

[14] *See* CBOE Rule 6.45.

and Non-FLEX Options reflect the institutional nature of the market for FLEX Options and the fact that the CBOE must compete with over-the-counter markets throughout the world, many of which do not impose any position or exercise limits whatsoever.

Also, the Exchange proposes to provide that the expiration date of a FLEX Equity Option may not fall on a day that is within two business days of the expiration date of a Non-FLEX Equity Option. This is intended to eliminate the possibility that the exercise of FLEX Equity Options at expiration will cause any untoward pressure on the market for underlying securities at the same time as Non-FLEX Options expire. The Exchange proposes that this change will also apply to FLEX Index Options.[15]

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act, in general, and furthers the objectives of Section 6(b)(5) of the Act,[16] in particular, in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest in that extending the existing FLEX Option program to encompass FLEX Options on specified equity securities will for the first time provide investors with a regulated, transparent exchange market in flexible options on individual equity securities.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–95–43 and should be submitted by October 3, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–22536 Filed 9–11–95; 8:45 am]

BILLING CODE 8010–01–M

[15] CBOE Rule 24A.4(c)(iv) currently provides that the expiration date of a FLEX Index Option may not fall within three business days of the expiration date of a Non-FLEX Index Option.

[16] 15 U.S.C. 78f(b)(5) (1988).

[17] 17 CFR 200.30–3(a)(12) (1994).

[Release No. 34–36187; File No. SR–PSE–95–19]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Stock Exchange Incorporated Relating to the Amendment of the Schedule of Rates for Exchange Services

September 5, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on August 22, 1995 the Pacific Stock Exchange Incorporated (''PSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend its Schedule of Rates for Exchange Services.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend its Schedule of Rates for Exchange Services as follows: First, the Exchange is proposing to reduce its fee for transfers of membership that are made on a temporary basis. Currently, the fee for certain intra-organizational transfers of membership (temporary or permanent) is $250.00.[2] Under the proposal, if a transfer of membership is made on a temporary basis (*e.g.*, while a member is away on vacation), the amount of the fee would be $100.00.[3] Second, the Exchange is proposing to eliminate its charge of $0.005 per share on net outgoing market maker principal

[2] *See* PSE Rule 1.10(a)(ii).

[3] The Exchange has represented that a temporary transfer of membership is one made for 30 days or less. The Commission notes that the current language of PSE Rule 1.10(a)(ii) provides for a $250.00 fee for the temporary transfers of membership and, therefore, conflicts with the proposed amendment. To remedy this conflict, the Exchange has further represented that it will submit a filing in the near future that, among other things, will conform PSE Rule 1 to the proposed amendment and make it clear that a temporary transfer of membership, for the purposes of the proposed amendment, is one for 30 days or less. Telephone conversation between Michael D. Pierson, Senior Attorney, PSE and Glen Barrentine, Team Leader, SEC (Aug. 30, 1995).

trades executed over the Intermarket Trading System (''ITS''). Third, the Exchange is proposing to reduce its systems fee for equity specialists from $1,700 per month per cost to $1,550 per month per post. This change represents a reduction in the workstation component (two personal computers) of the specialist system fee. Fourth, the Exchange is proposing to reduce its P/COAST [4] workstation fee for floor brokers (one personal computer) from $250.00 per month to $175.00 per month. Fifth, the Exchange is proposing to reduce its charge for additional personal computers from $200.00 per month per personal computer to $175.00 per month per personal computer. The purpose of the proposed changes is to ensure that the subject rates and charges are fair and competitive.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section (6)(b) of the Act [5] in general and furthers the objectives of Section 6(b)(4) [6] in particular in that it provides for the equitable allocation of reasonable dues, fees, and other charges among the Exchange's members and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change constitutes or changes a due, fee, or other charge imposed by the Exchange and, therefore, has become effective pursuant to Section 19(b)(3)(A) of the Act [7] and subparagraph (e) of Rule 19b–4 thereunder.[8]

At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written comments with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of the Pacific Stock Exchange. All submissions should refer to File No. SR–PSE–95–19 and should be submitted by October 3, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–22537 Filed 9–11–95; 8:45 am]

BILLING CODE 8010–01–M

[4] P/COAST stands for Pacific Computerized Order Access SysTem.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f (b)(4).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4.

[9] 17 CFR 200.30–3(a) (12).

SMALL BUSINESS ADMINISTRATION

[License No. 01/71–0363]

Pioneer Ventures Limited Partnership II; Notice of Request for Exemption

On June 27 1995, Pioneer Ventures Limited Partnership II (''PVLP II''), a Massachusetts limited partnership and SBIC Licensee number 01/71–0363 filed a request to the SBA pursuant to Section 107.903(b) of the Regulations governing small business investment companies (13 CFR 107.903(b)(1995)) for an exemption allowing the Licensee to invest in Corex Technologies Corporation (Corex), of Brookline Massachusetts. Corex received prior financial assistance from an Associate (as defined by Section 107.3 of the SBA Regulations) of PVLP II, and has itself become an Associate of the Licensee. Corex is currently in need of additional capital, and PVLP II can only offer this assistance to Corex upon receipt of a prior written exemption from SBA. This exemption is the basis for this notice.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on this exemption request to the Associate Administrator for Investment, Small Business Administration, 409 3rd Street, SW, Washington, DC 20416.

A copy of this Notice will be published in a newspaper of general circulation in Brookline, Massachusetts.

(Catalog of Federal Domestic Assistance Programs No. 59.011, Small Business Investment Companies)

Dated: August 29, 1995.

Robert D. Stillman,

Associate Administrator for Investment.

[FR Doc. 95–22571 Filed 9–11–95; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

National Highway Traffic Safety Administration

[NHTSA Docket No. 93–55, Notice 3]

RIN 2127–AF94

Pilot State Highway Safety Program

AGENCY: Federal Highway Administration and National Highway Traffic Safety Administration, DOT.

ACTION: Notice of waiver.

SUMMARY: The Federal Highway Administration (FHWA) and the National Highway Traffic Safety Administration (NHTSA) are announcing the creation of a pilot highway safety program for fiscal year 1996 State highway safety programs under 23 U.S.C. 402, and the waiver of certain procedures for States that have elected to participate in the pilot program.

EFFECTIVE DATE: September 12, 1995.

FOR FURTHER INFORMATION CONTACT: In NHTSA, Marlene Markison, Office of State and Community Services, 202–366–2121; John Donaldson, Office of the Chief Counsel, 202–366–1834. In FHWA, Mila Plosky, Office of Highway Safety, 202–366–6902; Paul Brennan, Office of the Chief Counsel, 202–366–0834.

SUPPLEMENTARY INFORMATION:

Background

The Highway Safety Act of 1966 (23 U.S.C. 401 *et seq.*) established a formula

grant program to improve highway safety in the States. As a condition of the grant, the States must meet certain requirements contained in 23 U.S.C. 402. Section 402(a) requires each State to have a highway safety program, approved by the Secretary of Transportation, which is designed to reduce traffic accidents and the deaths, injuries, and property damage resulting from those accidents. Section 402(b) sets forth the minimum requirements with which each State's highway safety program must comply. For example, the Secretary may not approve a program unless it provides that the Governor of the State is responsible for its administration through a State highway safety agency which has adequate powers and is suitably equipped and organized to carry out the program to the satisfaction of the Secretary. Additionally, the program must authorize political subdivisions of the State to carry out local highway safety programs and provide a certain minimum level of funding for these local programs each fiscal year. The enforcement of these and other requirements is entrusted to the Secretary and, by delegation, to FHWA and NHTSA (the agencies).

The agencies currently administer the program in accordance with an implementing regulation, Uniform Procedures for State Highway Safety Programs (23 CFR Part 1200) (the Uniform Procedure Rule), which contains procedures for the submission, content, and approval of each State's Highway Safety Plan and requirements for implementation, management, and closeout of each year's Highway Safety Plan. A number of other requirements apply to the Section 402 program, including those generally appearing in Chapter II of Title 23 CFR and such government-wide provisions as the Uniform Administrative Requirement for Grants and Cooperative Agreements to State and Local Governments (49 CFR Part 18) and the various Office of Management and Budget (OMB) Circulars containing cost principles and audit requirements (e.g., OMB Circulars A–21, A–87, A–122, A–128, and A–133).

In the years since enactment of Section 402, States have developed and deployed the resources necessary to conduct mature and highly effective highway safety programs. The agencies have become aware of interest on the part of some States in assuming more responsibility for the planning and direction of their programs, with a decreased emphasis on detailed Foreign oversight. In response to that interest, and consistent with efforts to relieve burdens to the States under the President's regulatory reform initiative, the agencies have established a pilot program for fiscal year 1996 highway safety programs. The details of the pilot program have been discussed at length with the States during the planning stages, and appeared in the Appendix to this notice. In brief outline, the pilot program replaces the requirement for State submission and Federal approval of a Highway Safety Plan with a benchmarking process by which the State sets its own performance goals.

The agencies have queried each State about its interest in participating in the pilot program for the fiscal year 1996 highway safety program. This notice lists those States that have chosen to become participants and waives existing procedures for these participants, to the extent that they are inconsistent with the pilot program, for the duration of fiscal year 1996. This wavier does not affect any provisions specifically imposed by statute or by publications of Government-wide applicability (e.g., 49 CFR Part 18, OMB Circulars). Assuming the pilot program is successful, the agencies expect to revise the regulations governing the State highway safety program to permanently accommodate the pilot procedures.

States Participating in the Fiscal Year 1996 Pilot Program

The following States have elected to participate in the pilot program for fiscal year 1996:

Alaska
California
Colorado
Delaware
Illinois
Indiana
Maryland
Massachusetts
New York
North Dakota
Ohio
Pennsylvania
South Dakota
Utah
West Virginia
Wisconsin

Waiver

Any provisions of 23 CFR Chapter II which conflict with the procedures of the pilot program are waived for the States listed above for fiscal year 1996. Pilot States will instead follow the procedures appearing in the Appendix. For example, pilot States will not have to seek approval for changes involving transfers of funds between program areas or for continuing projects beyond three years. Instead, these States may unilaterally move funds between program areas and extend projects in accordance with their program needs. However, pilot States will still have to submit an updated HS Form 217 reflecting the change, in the former case, and follow the increased cost-sharing requirements for projects exceeding three years, in the latter case.

States following the pilot program procedures must continue to comply with all statutory requirements contained in 23 U.S.C. 402, and the Governor's Representative for Highway Safety shall sign a certification statement to that effect. In addition, Federal regulations having government-wide applicability will continue to apply, and are also referenced in the certification statement to be signed by the Governor's Representative for Highway Safety.

Authority: 23 U.S.C. 315 and 402; 49 CFR 1.48 and 1.50.

Issued on: September 7, 1995.

Ricardo Martinez,

National Highway Traffic Safety Administrator.

Rodney E. Slater,

Federal Highway Administrator.

Appendix—Fiscal year 1996 Pilot State Highway Safety Program

A State participating in the pilot program must continue in that program through the completion of the highway safety program cycle, including submission of the annual evaluation report and final voucher.

Prior to August 1, 1995, the States were advised to prepare a *planning document* describing how the Federal highway safety funds will be used consistent with the guidelines, priority areas, and other requirements established under Section 402. The planning document shall be formally approved and adopted by the Governor's Representative for Highway Safety (GR). It serves as the basis for the State's development of the financial elements identified in the HS Form 217 discussed below. Unlike the Highway Safety Plan, there is no requirement that this planning document be approved by NHTSA and FHWA. Instead, by August 1, the State planning document is to be sent to the NHTSA Regional Administrator (RA) and the FHWA Division Administrator (DA) for information. If the RA and/or DA observe elements of the plan that are not authorized by section 402 or otherwise not in accordance with law, they will notify the State, which shall take appropriate corrective action.

As soon as practicable after August 1, 1995, and in any event prior to fund disbursement, the State shall submit (1) a *certification statement* and (2) a *benchmark report* to NHTSA/FHWA. (Note: At the State's option, the *planning document, certification statement,* and *benchmark report* may be combined into one document.)

The *certification statement,* signed by the GR, shall provide formal assurances regarding the State's compliance with applicable laws and financial and

programmatic requirements pertaining to the Federal grant. (To assure that States are well informed of their responsibilities, NHTSA and FHWA will provide every State with an up-to-date manual (the Highway Safety Grant Management Manual) containing pertinent Federal requirements and policies.)

The *benchmark report* shall have three components:

1. *Process Description*—This component shall contain a brief description of the *process(es)* used by the State to: (1) Identify its highway safety problems, (2) establish its proposed performance goals and (3) develop the programs/projects in its plan.

The description shall specify the participants in the three processes (such as State and local organizations, Highway Safety Committees or Task Forces, SMS group, private entities), the data and information sources used (including how recent and why utilized), and the criteria and/or strategies for program and project selections (such as locations or groups targeted due to special needs or problems, ongoing activities, training needs). The description should focus on links between identified problems, performance goals, and activities selected. This Process Description need not be lengthy. An annotated flow chart may provide sufficient information.

2. *Performance goals*—The heart of the benchmark report is the State's description of its highway safety performance goals. Each State shall establish performance goals (including target dates) and identify the performance measures it will use to track progress toward each goal and its current (baseline) status with regard to these measures.

A State's selection of appropriate long- and short-term goals should evolve from the problem identification process and be consistent with guidelines and priority areas established under Section 402. It will not be necessary to address *all* national priority areas in the new benchmarking system. While NHTSA is required by statute to identify those programs most effective in addressing national highway safety priority program areas for the use of Section 402 funds, States have latitude to determine their own highway safety problems, goals, and program emphasis.

A State might include goals as broad as ''decreasing alcohol-related crashes in the State by X percent or X number by year 2010 from X percent or X number (baseline).'' On the other hand, the State goal might be as specific as ''reducing alcohol-related deaths/injuries of youth ages 16–20 in the State by X percent of all State youth.'' When long-term goals are identified, the State should consider setting interim targets.

Moving from a process to an outcome approach requires that a set of outcome measures be established that represent the status of key traffic safety programs at the State level, including those programs that are National Priority Program Areas which the State has chosen to address. There are many sources for these measures. The Fatal Accident Reporting System (FARS), restraint usage surveys, State emergency medical services and police enforcement systems, and Crash Outcome Data Evaluation System (CODES) are examples of the data bases from which to select appropriate performance measures. The types of data available will vary from State to State. In all cases, the measures used must be ones that are reliable, readily available, and reasonable in measuring the outcome of a good highway safety program.

Not all items in a State's planning document will directly correlate to one specific goal. Certain programs and countermeasures have an impact on several goals or on an overall program area. For example, Standardized Field Sobriety Testing (SFST) training may affect all of a State's alcohol goals. Examples of performance measures are included in the final section of this appendix.

3. *HS Form 217, the ''Highway Safety Program Cost Summary''*

This form reflects the State's proposed allocation of funds, including carry-forward funds, by program area. The allocations shall be based on the State's identified performance goals and its planning document. The funding level used shall be an estimate of available funding in the upcoming fiscal year. After the exact amount of annual Federal funding has been determined, the State shall submit the revised or ''initial obligating'' HS Form 217. The amount of Federal funds reflected on the revised HS Form 217 shall not exceed the obligation limitation. A subsequent revised HS Form 217 shall be submitted for any changes made by the State to those data elements appearing on the form (i.e., program area, P&A limitation, 40% local funding, matches).

Federal approval of each State's highway safety program will be in the form of a letter from NHTSA and FHWA to the Governor and GR *acknowledging the State's submission of a certification statement, benchmark report, and planning document that comply with all requirements described above.*

Annual Evaluation Report

Within 90 days after the end of the fiscal year, each State shall submit an *Annual Evaluation Report.* This report shall address:

1. State progress toward performance goals, using performance measures identified in the initial fiscal year benchmark report.

2. Steps taken toward meeting the State goals identified in the benchmark report, which may include administrative measures such as the number of training courses given and people trained, and the number of citations issued for not using child safety seats or safety belts; and

3. Descriptions of State and community projects funded during the year.

States are strongly encouraged to set ambitious goals and implement programs to achieve those goals. States will not be penalized or sanctioned for not meeting identified performance goals. However, where little or no progress toward goals is perceived, as described in the annual evaluation report or discussed in periodic meetings, NHTSA and FHWA staff will recommend changes in strategies, countermeasures, or goals.

As under the current procedures, there can be no extensions for the annual report due date even though a State can request an extension of up to 90 days for submission of the final voucher.

Moving From a Process-Dominated to an Outcome-Based Approach

Implementation of this new approach will establish new roles and relationships for both Federal and State participants. The involvement of the NHTSA and FHWA field staff in the operational aspects of a State highway safety program will entail a minimum of two formal strategic planning meetings per year to discuss implementation issues and needs that NHTSA/FHWA can meet. During these sessions, the regional, division and State representatives will review each State's progress toward identifying and meeting its goals and will discuss and negotiate strategies being used.

The degree and level of technical assistance in functional matters provided by NHTSA and FHWA will be determined at these meetings. National and regional NHTSA and FHWA staff have special expertise and can provide a national perspective on outcome approaches (best practices, newest countermeasures), marketing, training, data analysis, evaluation, financial management, and program development. (Of course, these same regional services will be available to States choosing to continue working under the existing HSP procedures.)

Examples of Performance Measures

This section contains examples of highway safety performance measures to assist States in formulating their goals. In addition to those identified below, other measures might include societal costs, CODES data, hospital head injury and similar injury data, etc. Measures must be reliable, readily available, and reasonable as representing the outcome of a good highway safety program. (The national FARS average or norm for each measure, if available, appears in parentheses.)

Overall Highway Safety Indices

State fatality rate per 100M vehicle miles (1.7)
% motor vehicle collisions with non-motor vehicle (17%)
Number of pedestrians or bicyclists injured or killed

Alcohol

Drivers in fatal crashes with BACs > .00, .08, .10 (State limit)
Drivers in fatal crashes, ages 15–20, with BACs> .00, .08, .10 (State limit)
% alcohol-related crashes (42%)
% alcohol-related fatalities
% alcohol-related injuries
Conviction rates for DUI/DWI

Occupant Protection

% motor vehicle occupants (MVO) restrained (National State Survey 67%)
% MVO fatalities restrained (35%)
% MVO injuries restrained
% MVO youth fatalities (age 15–20) restrained (35%)

Child Safety

% MVO fatalities age 0–4 restrained (70%)
% MVO injuries age 0–4 restrained

% MVO fatalities age 0–4 unrestrained

Emergency Medical Services

Time of crash to hospital treatment (60 min or less)
Time of crash to response time (arrival at crash site)

Motorcycle Safety

% motorcyclists helmeted (restraint survey)
% motorcycle fatalities helmeted (60%)
% motorcycle injuries helmeted
% motorcycle fatalities with properly licensed drivers (41%)
% motorcycle fatalities alcohol-involved (51%)
% motorcycle injuries alcohol-involved
Number of fatal or serious head injuries

Pedestrian Safety

Number/% urban predestrain fatalities at intersections or crossings (35%)
Number/% alcohol-impaired pedestrian fatalities 16 yrs and older (36%)
Number/% total fatalities or serious injuries that are pedestrian in given jurisdiction
Number/% urban pedestrian injuries
Number/% rural pedestrian injuries

Bicycle Safety

% pedacycle fatalities helmeted (no national norm)
% pedacycle fatalities ages 26–39 alcohol-impaired (26%)

Speed

% fatal crashes with speed as a contributing factor (31%)
Number of speed-related fatalities / fatal crashes
Monitoring changes in average speeds overall and on specific types of roadways (interstate, other 55–60 mph roads)

Youth

(National performance measures from above plus:)
% drivers ages 15–20 in fatal crashes with BACs >.01 (40%)
% drivers ages 15–20 injured in crashes with BACs >.01
Total fatalities per 100K involving registered drivers, ages 15–20
Total fatalities per 100 million VMT for youth, ages 15–20
Total injuries per 100K registered drivers, ages 15–20
Total injuries per 100 million VMT for youth, ages 15–20
% MVO fatalities, ages 15–20, restrained (35%)

Police Traffic Services

(See subject categories)

Roadway Safety

Work zone fatalities
Work zone injuries (included M.V. occupants, peds, & work personnel)
Number of Highway-railroad grade crossing crashes—number of injuries or fatalities
Number of flaggers injured or killed
Number of workers injured or killed

Traffic Records

Number of personnel trained in record collection, data input, and data analysis
Number of high accident locations identified and improved
Unknown % for occupant protection fatalities (10%)
Unknown/untested % for fatal driver BAC (30%)
Unknown % of time of crash to hospital arrival (50%)
Entering data within a specific time
Linking data systems

Injury Prevention Goals

(See subject categories)

[FR Doc. 95–22598 Filed 9–7–95; 2:03 pm]
BILLING CODE 4910–59–M

[FHWA Docket No. MC–94–14]

State Commercial Motor Vehicle Safety Law Affecting Interstate Commerce; Notice of Preemption Determination

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of determination of preemption of State of Mississippi commercial motor vehicle safety law.

SUMMARY: The FHWA has reviewed a State of Mississippi commercial motor vehicle safety law and determined that it is incompatible with Federal regulations. This review is required by the Motor Carrier Safety Act of 1984 (Pub. L. 98–554, 98 Stat. 2832). The FHWA has determined that the State law is preempted by Federal law and may not be in effect and enforced with respect to commercial motor vehicles in interstate commerce.

EFFECTIVE DATE: This preemption determination is effective September 12, 1995.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Taylor, Office of Motor Carriers, HFO–30, (202) 366–9579; or Mr. David Sett, Office of the Chief Counsel, HCC–20, (202) 366–0834; Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: Under the United States Constitution, the Congress is granted the power to regulate interstate commerce. In the Motor Carrier Safety Act of 1984 (the Act), the Congress authorized the Secretary of Transportation to issue regulations pertaining to the safety of commercial motor vehicles in interstate commerce. 49 U.S.C. 31136. The Congress did not choose to wholly occupy the field, however, and States are not precluded from such regulation insofar as the State laws are compatible with and have the same effect as Federal regulations.

State laws which are incompatible with and do not have the same effect as Federal regulations may not be in effect and enforced with respect to commercial motor vehicles in interstate commerce and are subject to Federal preemption. The Act directs the Secretary of Transportation to conduct rulemaking proceedings to determine whether State laws may be preempted. The proceedings may be pursuant to the Secretary's own initiative or the petition of any interested person. 49 U.S.C. 31141.

The Commercial Motor Vehicle Safety Regulatory Review Panel, which was established by the Act to analyze State commercial motor vehicle safety laws and regulations, notified the FHWA in its final report in August 1990 that a State of Mississippi law was incompatible with Federal regulations. The law in question exempts vehicles engaged in certain industries, such as lumber and gravel hauling and farming, from compliance with State motor carrier safety laws and regulations.

On July 15, 1994, the FHWA initiated a rulemaking proceeding to review the State of Mississippi law. 59 FR 36252. All interested persons were invited to submit comments to the rulemaking docket. The only comment received was from the Advocates for Highway Safety, which agreed with the preliminary determination of preemption on the grounds that the exemptions in the State of Mississippi law are not provided in Federal regulations.

The specific provisions which were reviewed, and preliminarily found to be preempted as they apply to interstate commerce, are found in Section 77–7–16(3)(g)–(i), Mississippi Code of 1972. Subsection (3) exempts certain vehicles and operations from the provision in the Code requiring the State Public Service Commission to ''promulgate as its own and enforce the rules, regulations, requirements and classifications of the United States Department of transportation or any successor federal agency charged with regulation of motor vehicle safety.'' Included in the exemption are:

(g) Motor vehicles owned and operated by any farmer who:

(i) Is using the vehicle to transport agricultural products from a farm owned by the farmer, or to transport farm machinery or farm supplies to or from a farm owned by the farmer;

(ii) Is not using the vehicle to transport hazardous materials of a type and quantity that requires the vehicle to be placarded in accordance with the Federal Hazardous Material Regulations in CFR 49 part 177.823; and

(iii) Is using the vehicle within one hundred fifty (150) air miles of the farmer's farm, and the vehicle is a private motor carrier of property.

(h) Motor vehicles engaged in the transportation of logs and pulpwood between the point of harvest and the first point of processing the harvested product;

(i) Motor vehicles engaged exclusively in hauling gravel or other unmanufactured road building materials.

The Federal Motor Carrier Safety Regulations (FMCSRs) do not contain compatible exemptions. Generally, the FMCSRs do not allow industry-based exemptions. State laws which provide such exemptions for vehicles in interstate commerce are deemed less stringent than the FMCSRs.

Drivers of farm vehicles, such as defined in paragraph (g) of the Mississippi Code, do have limited (49 CFR 391.67, articulated vehicles) and full (49 CFR 391.2(c), nonarticulated vehicles) exemptions from driver qualification requirements of Part 391 of the FMCSRs. Unlike the Mississippi Code, however, the FMCSRs do not exempt farm vehicles or their drivers from any other motor carrier safety requirements. Paragraph (g) is, therefore, determined to be preempted insofar as it provides exemptions for farm vehicles not found in the FMCSRs.

The exemptions in paragraphs (h) and (i) for gravel and log haulers have no parallels in the FMCSRs. Each of these provisions in the Mississippi Code are therefore incompatible with the FMCSRs and are determined to be preempted.

Insofar as these exemptions affect vehicles in interstate commerce, they are contrary to the guideline for regulatory review in 49 CFR Part 355, app. A, which provides that the ''requirements must apply to all segments of the motor carrier industry.'' Because the exemptions are less stringent than Federal regulations, the State law is preempted and shall not be in effect and enforced by the State of Mississippi with respect to commercial motor vehicles in interstate commerce. 49 U.S.C. 31141.

Any person, including the State of Mississippi, may petition the FHWA for a waiver from a preemption determination. 49 U.S.C. 31141(d). A petitioner is afforded the opportunity for a hearing on the record. A waiver may be granted if it is demonstrated that the waiver is not contrary to the public interest and is consistent with the safe operation of commercial motor vehicles.

Any person adversely affected by this determination may also file a petition for judicial review of the determination in the United States Court of Appeals.

It should be reemphasized that this preemption determination is applicable only to certain State of Mississippi commercial motor vehicle safety laws insofar as they apply to vehicles in interstate commerce. State of Mississippi laws applicable only to vehicles in intrastate commerce are not subject to preemption, and, moreover, appear to be compatible for purposes of the Motor Carrier Safety Assistance Program because they fall within the Tolerance Guidelines. 49 CFR Part 350, app. C.

(49 U.S.C. 31141; 23 U.S.C. 315; 49 CFR 1.48)

Issued on: August 31, 1995.

Rodney E. Slater,

Federal Highway Administrator.

[FR Doc. 95–22564 Filed 9–11–95; 8:45 am]

BILLING CODE 4910–22–P

National Highway Traffic Safety Administration

[Docket No. 95–53; Notice 2]

Cantab Motors, Ltd., Grant of Application for Temporary Exemption From Federal Motor Vehicle Safety Standards No. 208 and 214

Cantab Motors, Ltd., of Round Hill, Va., applied for a temporary exemption of two years from paragraph S4.1.4 of Federal Motor Vehicle Safety Standard No. 208 *Occupant Crash Protection*, and for three years from Federal Motor Vehicle Safety Standard No. 214 *Side Impact Protection*. The basis of the application was that compliance will cause substantial economic hardship to a manufacturer that has tried to comply with the standard in good faith.

Notice of receipt of the application was published on July 14, 1995, and an opportunity afforded for comment (60 FR 36328).

The make and type of passenger car for which exemption was requested is the Morgan open car or convertible. Morgan Motor Company (''Morgan''), the British manufacturer of the Morgan, has not offered its vehicle for sale in the United States since the early days of the Federal motor vehicle safety standards. In the nine years it has been in business, the applicant has bought 35 incomplete Morgan cars from the British manufacturer, and imported them as motor vehicle equipment, completing manufacture by the addition of engine and fuel system components. They differ from their British counterparts, not only in equipment items and modifications necessary for compliance with the Federal motor vehicle safety standards, but also in their fuel system components and engines, which are propane fueled. As the party completing manufacture of the vehicle, Cantab certifies its conformance to all applicable Federal safety and bumper standards. The vehicle completed by Cantab in the U.S. is deemed sufficiently different from the one produced in Britain that NHTSA considers Cantab the manufacturer, not a converter, even though the brand names are the same.

Morgan itself produced 478 cars in 1994, while in the year preceding the filing of its petition in June 1995, the applicant produced 9 cars for sale in the United States. Since the granting of its original exemption in 1990, Cantab has invested $38,244 in research and development related to compliance with Federal safety and emissions standards. The applicant has experienced a net loss in each of its last three fiscal (calendar) years, with a cumulative net loss for this period of $92,594.

Application for Exemption From Standard No. 208

Cantab received NHTSA Exemption No. 90–3 from S4.1.2.1 and S4.1.2.2 of Standard No. 208, which expired May 1, 1993 (55 FR 21141). When this exemption was granted in 1990, the applicant had concluded that the most feasible way for it to conform to the automatic restraint requirements of Standard No. 208 was by means of an automatically deploying belt. In the period following the granting of the exemption, Morgan and the applicant created a mock-up of the Morgan passenger compartment with seat belt hardware and motor drive assemblies. In time, it was determined that the belt track was likely to deform, making it inoperable. The program was abandoned, and Morgan and Cantab embarked upon research leading to a dual airbag system.

According to the applicant, Morgan tried without success to obtain a suitable airbag system from Mazda, Jaguar, Rolls-Royce and Lotus. As a result, Morgan is now developing its own system for its cars, and ''[a]s many as twelve different sensors, of both the impact and deceleration (sic) type, have been tested and the system currently utilizes a steering wheel from a Jaguar and the Land Rover Discovery steering column.'' Redesign of the passenger compartment is underway, involving knee bolstering, a supplementary seat belt system, anti-submarining devices, and the seats themselves. Morgan informed the applicant on May 2, 1995, that it had thus far completed 10 tests on the mechanical components involved ''and are now carrying out a detailed assessment of air bag operating systems and columns before we will be in a position to undertake the full set of

appropriate tests to approve the installation in our vehicles.''

Application for Exemption From Standard No. 214

Concurrently, Morgan and the applicant have been working towards meeting the dynamic test and performance requirements for side impact protection, for which Standard No. 214 has established a phase-in schedule. Although Morgan fits its car with a dual roll bar system specified by Cantab, and Cantab installs door bars and strengthens the door latch receptacle and striker plate, the system does not yet conform to the new requirements of Standard No. 214, and the applicant has asked for an exemption of three years. It does, however, meet the previous side door strength requirements of the standard. Were the phase-in requirement of S8 applied to it, calculated on the basis of its limited production, only very few cars would be required to meet the standard.

Safety and Public Interest Arguments

Because of the small number of vehicles that the applicant produces and its belief that they are used for pleasure rather than daily for business commuting or on long trips, and because of the three-point restraints and side impact protection currently offered, the applicant argued that an exemption would be in the public interest and consistent with safety. It brought to the agency's attention two recent oblique front impact accidents at estimated speeds of 30 mph and 65 mph respectively in which the restrained occupants ''emerged unscathed.''

Further, the availability ''of this unique vehicle . . . will help maintain the existing diversity of motor vehicles available to the U.S. consumer.'' Finally, ''the distribution of [this] propane-fueled vehicle has contributed to the national interest by promoting the development of motor systems by using alternate fuels.''

No comments were received on the application.

In adding only engine and fuel system components to incomplete vehicles, the applicant is not a manufacturer of motor vehicles in the conventional sense. It does not produce the front end structural components, instrument panel, or steering wheel, areas of the motor vehicle whose design is critical for compliance with the airbag requirements of Standard No. 208. These are manufactured by Morgan, and the applicant is necessarily dependent upon Morgan to devise designs that will enable conformance with Standard No. 208. The applicant has been monitoring Morgan's progress, and that company is engaging in testing and design activities necessary for eventual conformance. The fact that the applicant is requesting only a two-year exemption, rather than three, indicates its belief that complying operator and passenger airbags will at last be fitted to its cars by the end of this period.

Similarly, the applicant is dependent upon the structural design of its vehicle for compliance with Standard No. 214. As with Standard No. 208, Morgan and the applicant are working towards conformance, though apparently it will not be achieved within two years. In both instances, however, the applicant is conscious of the need to conform and has been taking steps to accomplish it. Although the company's total expenditure of $38,244 in the last five years to meet emission and safety requirements is low, the small number of cars produced for sale in the United States in the last year, nine, would not make available substantial funds to the company, and its cumulative net losses of $92,594 indicate an operation whose financial existence is precarious.

Applicant's cars are equipped with manual three-point restraint systems and comply with previous side impact intrusion requirements. Because applicant produces only one line of vehicles, it cannot take advantage of the phase-in requirement. Given the existing level of safety of the vehicles and the comparatively small exposure of the small number of them that would be produced under an exemption, there would appear to be an insignificant risk to traffic safety by providing an exemption. The public interest is served by maintaining the existence of small businesses and by creating awareness of alternative power sources.

In consideration of the foregoing, it is hereby found that to require immediate compliance with Standards Nos. 208 and 214 would cause substantial economic hardship to a manufacturer that has in good faith attempted to meet the standards, and that an exemption would be in the public interest and consistent with the objectives of traffic safety.

Accordingly, the applicant is hereby granted NHTSA Exemption No. 95–2, from paragraph S4.1.4 of 49 CFR 571.208 Motor Vehicle Safety Standard No. 208 *Occupant Crash Protection,* expiring September 1, 1997, and from 49 CFR 571.214 Motor Vehicle Safety Standard No. 214 *Side Impact Protection,* expiring September 1, 1998.

(49 U.S.C. 30113; delegation of authority at 49 CFR 1.50)

Issued on September 7, 1995.

Ricardo Martinez,

Administrator.

[FR Doc. 95–22605 Filed 9–11–95; 8:45 am]

BILLING CODE 49I0–59–P

[Docket No. 95–52; Notice 2]

Decision that Nonconforming 1992 Mercedes-Benz 300CE Passenger Cars are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of decision by NHTSA that nonconforming 1992 Mercedes-Benz 300CE passenger cars are eligible for importation.

SUMMARY: This notice announces the decision by NHTSA that 1992 Mercedes-Benz 300CE passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to a vehicle originally manufactured for importation into and sale in the United States and certified by its manufacturer as complying with the safety standards (the U.S.-certified version of the 1992 Mercedes-Benz 300CE), and they are capable of being readily altered to conform to the standards.

DATE: This decision is effective as of September 12, 1995.

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. § 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As

specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

J.K. Motors of Kingsville, Maryland (Registered Importer R–90–006) petitioned NHTSA to decide whether 1992 Mercedes-Benz 300CE passenger cars are eligible for importation into the United States. NHTSA published notice of the petition on July 18, 1995 (60 FR 36873) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition. No comments were received in response to the notice. Based on its review of the information submitted by the petitioner, NHTSA has decided to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final decision must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP–117 is the vehicle eligibility number assigned to vehicles admissible under this decision.

Final Decision

Accordingly, on the basis of the foregoing, NHTSA hereby decides that a 1992 Mercedes-Benz 300CE (Model ID 124.050 and 124.061) not originally manufactured to comply with all applicable Federal motor vehicle safety standards is substantially similar to a 1992 Mercedes-Benz 300CE originally manufactured for importation into and sale in the United States and certified under 49 U.S.C. § 30115, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: September 7, 1995.

Harry Thompson,

Acting Director, Office of Vehicle Safety Compliance.

[FR Doc. 95–22603 Filed 9–11–95; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. 95–73; Notice 1]

Notice of Receipt of Petition for Decision that Nonconforming 1987 Nissan Stanza Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonforming 1987 Nissan Stanza passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHSTA) of a petition for a decision that a 1987 Nissan Stanza that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is October 12, 1995.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 9:30 am to 4 pm.]

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. § 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i)(I) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. § 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Liphardt & Associates of Ronkonkoma, New York (''Liphardt'') (Registered Importer 90–004) has petitioned NHTSA to decide whether 1987 Nissan Stanza passenger cars are eligible for importation into the United States. The vehicle which Liphardt believes is substantially similar is the 1987 Nissan Stanza that was manufactured for importation into, and sale in, the United States and certified by its manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared the non-U.S. certified 1987 Nissan Stanza to its U.S. certified counterpart, and found the two vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

Liphardt submitted information with its petition intended to demonstrate that the non-U.S. certified 1987 Nissan Stanza, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as its U.S. certified counterpart, or is capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that the non-U.S. certified 1987 Nissan Stanza is identical to its U.S. certified counterpart with respect to compliance with Standards Nos. 102 *Transmission Shift Lever Sequence . . . .*, 103 *Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic Brake Systems,* 106 *Brake Hoses,* 107 *Reflecting Surfaces,* 109 *New Pneumatic Tires,* 111 *Rearview Mirrors,* 113 *Hood Latch Systems,* 116 *Brake Fluid,* 118 *Power Window Systems,* 124 *Accelerator Control Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 203 *Impact Protection for the Driver From the Steering Control System,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 211 *Wheel Nuts, Wheel Discs and Hubcaps,* 212 *Windshield Retention,* 216 *Roof Crush*

Resistance, 219 *Windshield Zone Intrusion,* 301 *Fuel System Integrity,* and 302 *Flammability of Interior Materials.*

Additionally, the petitioner states that the non-U.S. certified 1987 Nissan Stanza complies with the Bumper Standard found in 49 CFR Part 581.

Petitioner also contends that the vehicle is capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) substitution of a lens marked ''Brake'' for a lens with an ECE symbol on the brake failure indicator lamp; (b) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) installation of U.S.-model headlamp assemblies which incorporate sealed beams and sidemarkers; (b) installation of U.S.-model taillamps; (c) installation of a high mounted stop lamp.

Standard No. 110 *Tire Selection and Rims:* installation of a tire information placard.

Standard No. 114 *Theft Protection:* installation of a warning buzzer in the steering lock electrical circuit.

Standard No. 115 *Vehicle Identification Number:* installation of a VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch post nearest the driver.

Standard No. 208 *Occupant Crash Protection:* installation of a seat belt warning buzzer. The petitioner states that the vehicle is equipped with a seat belt warning lamp and with seat belt assemblies that are identical to those found on its U.S. certified counterpart.

Standard No. 214 *Side Impact Protection:* installation of reinforcing beams.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, Seventh Street, S.W., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: September 7, 1995.

Harry Thompson,

Acting Director, Office of Vehicle Safety Compliance.

[FR Doc. 95–22602 Filed 9–11–95; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. 95–58; Notice 2]

Decision That Nonconforming 1996 Mercedes-Benz Gelaendewagen Type 463 Multi-Purpose Passenger Vehicles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of decision by NHTSA that nonconforming 1996 Mercedes-Benz Gelaendewagen Type 463 multi-purpose passenger vehicles (MPVs) are eligible for importation.

SUMMARY: This notice announces the decision by NHTSA that 1996 Mercedes-Benz Gelaendewagen Type 463 MPVs not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they have safety features that comply with, or are capable of being altered to comply with, all such standards.

DATES: The decision is effective as of September 12, 1995.

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. § 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i)(I) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. § 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards. Where there is no substantially similar U.S.-certified motor vehicle, 49 U.S.C. § 30141(a)(1)(B) (formerly section 108(c)(3)(A)(i)(II) of the Act, 15 U.S.C. § 1397(c)(3)(A)(i)(II)) permits a nonconforming motor vehicle to be admitted into the United States if its safety features comply with, or are capable of being altered to comply with, all applicable Federal motor vehicle safety standards based on destructive test data or such other evidence as NHTSA decides to be adequate.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the **Federal Register**.

Europa International, Inc. of Santa Fe, New Mexico (Registered Importer No. R–91–002) petitioned NHTSA to decide whether 1996 Mercedes-Benz Gelaendewagen Type 463 MPVs are eligible for importation into the United States. NHTSA published notice of the petition on July 24, 1995 (60 FR 37915) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition. No comments were received in response to the notice. Based on its review of the information submitted by the petitioner, NHTSA has decided to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final determination must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VCP–11 is the vehicle eligibility number assigned to vehicles admissible under this determination.

Final Decision

Accordingly, on the basis of the foregoing, NHTSA hereby decides that 1996 Mercedes-Benz Gelaendewagen Type 463 MPVs are eligible for importation into the United States because they have safety features to comply with, or are capable of being altered to comply with, all applicable Federal motor vehicle safety standards.

Authority: 49 U.S.C. § 30141(a)(1)(B) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: September 7, 1995.

Harry Thompson,

Acting Director, Office of Vehicle Safety Compliance.

[FR Doc. 95–22599 Filed 9–11–95; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. 95–55; Notice 2]

Decision That Nonconforming 1992 Jaguar XJS Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of decision by NHTSA that nonconforming 1992 Jaguar XJS passenger care are eligible for importation.

SUMMARY: This notice announces the decision by NHTSA that 1992 Jaguar XJS passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to a vehicle originally manufactured for importation into and sale in the United States and certified by its manufacturers complying with the safety standards (the U.S.-certified version of the 1992 Jaguar XJS), and they are capable of being readily altered to conform to the standards.

DATES: This decision is effective as of September 12, 1995.

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. § 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. § 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then published this decision in the **Federal Register.**

Wallace Environmental Testing Laboratories, Inc. of Houston, Texas (Registered Importer R–90–005) petitioned NHTSA to decide whether 1992 Jaguar XJS passenger cars are eligible for importation into the United States. NHSTA published notice of the petition on July 21, 1995 (60 FR 37704) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition. No comments were received in response to the notice. Based on its review of the information submitted by the petitioner, NHTSA has decided to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final decision must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP–129 is the vehicle eligibility number assigned to vehicles admissible under this decision.

Final Decision

Accordingly, on the basis of the foregoing, NHTSA hereby decides that a 1992 Jaguar XJS not originally manufactured to comply with all applicable Federal motor vehicle safety standards is substantially similar to a 1992 Jaguar XJS originally manufactured for importation into and sale in the United States and certified under 49 U.S.C. § 30115, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on September 7, 1995.

Harry Thompson,

Acting Director, Office of Vehicle Safety Compliance.

[FR Doc. 95–22600 Filed 9–11–95; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. 95–74; Notice 1]

Notice of Receipt of Petition for Decision that Nonconforming 1989 Nissan Maxima Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1989 Nissan Maxima passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that a 1989 Nissan Maxima that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is [30 days after publication in the **Federal Register**].

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 9:30 am to 4 pm]

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. § 30141(a)(1)((A) (formerly section 108(c)(3)(A)(i)(I) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. § 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register.**

Liphardt & Associates of Ronkonkoma, New York (''Liphardt'') (Registered Importer 90–004) has petitioned NHTSA to decide whether 1989 Nissan Maxima passenger cars are eligible for importation into the United States. The vehicle which Liphardt believes is substantially similar is the 1989 Nissan Maxima that was manufactured for importation into, and sale in, the United States and certified by its manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared the non-U.S. certified 1989 Nissan Maxima to its U.S. certified counterpart, and found the two vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

Liphardt submitted information with its petition intended to demonstrate that the non-U.S. certified 1989 Nissan Maxima, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as its U.S. certified counterpart, or is capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that the non-U.S. certified 1989 Nissan Maxima is identical to its U.S. certified counterpart with respect to compliance with Standards Nos. 102 *Transmission Shift Lever Sequence* * * *, 103 *Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic Brake Systems,* 106 *Brake Hoses,* 107 *Reflecting Surfaces,* 109 *New Pneumatic Tires,* 111 *Rearview Mirrors,* 113 *Hood Latch Systems,* 116 *Brake Fluid,* 118 *Power Window Systems,* 124 *Accelerator Control Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 203 *Impact Protection for the Driver From the Steering Control System,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 211 *Wheel Nuts, Wheel Discs and Hubcaps,* 212 *Windshield Retention,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* 301 *Fuel System Integrity,* and 302 *Flammability of Interior Materials.*

Additionally, the petitioner states that the non-U.S. certified 1989 Nissan Maxima complies with the Bumper Standard found in 49 CFR Part 581.

Petitioner also contends that the vehicle is capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) substitution of a lens marked ''Brake'' for a lens with an ECE symbol on the brake failure indicator lamp; (b) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) installation of U.S.-model headlamp assemblies which incorporate sealed beams and sidemarkers; (b) installation of U.S.-model taillamps; (c) installation of a high mounted stop lamp.

Standard No. 110 *Tire Selection and Rims:* installation of a tire information placard.

Standard No. 114 *Theft Protection*: installation of a warning buzzer in the steering lock electrical circuit.

Standard No. 115 *Vehicle Identification Number*: installation of a VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch post nearest the driver.

Standard No. 208 *Occupant Crash Protection*: installation of a seat belt warning buzzer. The petitioner states that the vehicle is equipped with a seat belt warning lamp and with seat belt assemblies that are identical to those found on its U.S. certified counterpart.

Standard No. 214 *Side Impact Protection*: installation of reinforcing beams.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: September 7, 1995.

Harry Thompson,

Acting Director, Office of Vehicle Safety Compliance.

[FR Doc. 95–22601 Filed 9–11–95; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. 93–50; Notice 4]

Denial of Petition for Reconsideration, Nassau Technologies; Federal Motor Vehicle Theft Prevention Standard

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Response of Petition for Reconsideration.

SUMMARY: This notice denies a petition from Nassau Technologies, Inc., for reconsideration of NHTSA's decision not to include motor vehicle glazing as a major vehicle component, which would be subject to the parts-marking requirement of 49 CFR Part 541, Federal Motor Vehicle (Theft Prevention Standard). NHTSA is denying the petition because it believes that it needs cost and effectiveness information beyond that which it received in connection with this petition in order to make an informed decision about whether motor vehicle glazing should be added to the list of major components for which parts-marking is required by the theft prevention standard.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Gray, Office of Market Incentives, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Ms. Gray's telephone number is (202) 366–1740. Her fax number is (202) 493–2739.

SUPPLEMENTARY INFORMATION:

Background

On July 7, 1993, NHTSA published in the **Federal Register** an advance notice of proposed rulemaking (ANPRM) (58 FR 36376), seeking comments on possible definitions of multipurpose passenger vehicle (MPVs) and light-duty truck (LDTs) to be used in the Federal motor vehicle theft prevention standard (49 CFR Part 541) when the agency amended it to add those vehicles categories pursuant to the Anti Car Theft Act of 1992, P.L. 102–519 (October 25, 1992). The ANPRM also sought comments on which MPV and LDT parts should be considered major

component parts, and therefore, subject to the parts-marking requirements.

Several commenters on the ANPRM, Advocates for Highway and Auto Safety (Advocates), Prospective Technologies (Prospective), and State Farm Mutual Insurance Company (State Farm), suggested that motor vehicle glazing be treated as major component parts for all high-theft vehicle lines. Prospective cited the relative ease with which glazing could be marked, the low cost of marking, and provided examples of lower-theft rates for some motor vehicles with glazing that had been voluntarily marked with the vehicle identification number.

On July 8, 1994, the agency published a notice of proposed rulemaking (NPRM) in the **Federal Register** (59 FR 35082), which requested additional comments on proposed definitions of MPVs and LDTs and also solicited comments on the components of these vehicles that should be subject to parts marking. In the NPRM, the agency specifically requested additional information and comments on whether glazing should also be added to the passenger vehicle components subject to parts making, and proposed the following glazing components to be marked, if present on the vehicle: windshield, right/left front-side window, right/left rear-side window, rear window, and right/left T-top inserts. In addition, the NPRM sought comments on the exclusion of particular glazing pieces, and whether glazing should be exempted from the requirements of 49 CFR § 541.5(d)(1)(ii)(B) that the marking be placed on a portion of the part not likely to be damaged in a collision. Finally, the notice requested comments on how the target areas for glazing parts could be specified so that the markings required by the antitheft standard and the markings required by Federal motor vehicle safety standard 205, Glazing Materials, would not be placed in the same area.

Five of the fifteen commenters, International Association of Auto Theft Investigators (IAATI), Advocates, State Farm, Prospective, and Automark Corporation supported a requirement for marking motor vehicle glazing. The remaining commenters—automobile manufacturers and their associations, and the National Automobile Dealers Association (NADA)—disagreed with including glazing as a component to be subject to the parts-marking requirements. Among the reasons given for disagreement were excessive cost, the fact that none of the methods for marking glazing had been implemented on a manufacturer's assembly line, occupational and environmental hazards presented by some of the chemicals and other materials used in marking glass, the questionable effectiveness in deterring theft, and the absence of legal authority. Nassau did not comment on the NPRM, and no other commenter mentioned laser technology as means of marking glazing material.

After considering all of the comments, NHTSA issued a final rule that does not include glazing as one of the major vehicle components subject to the parts-marking requirements of Part 541 (59 FR 64164 (December 13, 1994)).

On January 12, 1995, the agency received a petition for reconsideration of the final rule from Nassau Technologies, Inc., of Stafford, Texas (Nassau). A manufacturer of a patented laser etching system known as LaserGuard. Nassau stated that it had not commented on the ANPRM or NPRM on requiring glazing to be marked under the theft prevention standard because it had not been aware of the agency's publication of the notices until after the comment period had closed. Its basis for seeking reconsideration of the final rule was that if NHTSA and the vehicle manufacturers had information about Nassau's LaserGuard system before the final rule, the agency would have included glazing as a component subject to the parts-marking requirements of Part 541.

Nassau specifically addressed four major issues raised by the commenters opposed to marking of vehicle glazing: cost, adverse environmental and occupational health impacts, effectiveness as a theft deterrent, and problems with etching replacement glazing.

Nassau contends that the cost estimates provided to NHTSA by the commenters opposed to marking of glazing were based on antiquated and costly glass-etching technologies, i.e., sandblasting and chemical etching processes. Nassau agreed that these methods are cumbersome and labor intensive.

However, it asserted that its LaserGuard etching process is less costly than these processes because its system is automated, requires no stencil production or no etching materials and can be adapted to robotics for assembly line use. Nassau believes that the per-vehicle cost to mark glass with the LaserGuard system would be far less than $5.00. The current per-vehicle cost using LaserGuard is $5. Nassau believes that the cost would be substantially reduced if the system were used on a large scale by the automobile manufacturers. According to Nassau, the low per-vehicle cost of LaserGuard would keep the total cost of marking all required components of a vehicle below the statutory cumulative limit of $20.86 (in 1993 dollars).

Nassau asserted that the environmental and employee health concerns about chemical etching and sandblasting raised by several manufacturers, including proper ventilation, storage and disposal of hazardous or caustic agents, and the need for protective apparel, would all be eliminated if the LaserGuard system were used. It stated that the LaserGuard system operates a Co_2 laser.

Nassau asserted that in its experience, glass etching has been successful as a theft deterrent. Its parent company has provided a glass etching product with a consumer warranty to a large automobile distributor for 10 years. The warranty for this product states that if the consumer's vehicle is stolen and not recovered the company will pay the owner one thousand dollars. Nassau submitted an exhibit showing that over a two-year period, 238,363 vehicles had their glazing etched using the product, and only 129 warranty claims were processed.

Nassau stated that insurance companies and lawmakers who recognize glass etching as a theft deterrent generally support the view that etching the glass protects the vehicle as a whole from theft. Nassau also asserted that because it is difficult for thieves to make a vehicle unidentifiable if two or more windows must be removed and replaced, some insurance companies give a discount on the premium for vehicles that have some but not all glazing etched. According to Nassau, this would ameliorate the problems concerning the etching of replacement glass that were raised by some commenters. (It cited as an example the Texas Insurance Automobile Rules and Rating Manual which defines a qualifying antitheft system as a ''system under which the motor vehicle identification number (VIN) is permanently marked on at least two windows of the motor vehicle other than the small vent windows.'') If having as few as two windows glazed is sufficient to deter theft of the vehicle, there would not be a frequent need to replace damaged glass with etched glass in order to gain the deterrent effect. Nassau added that for those consumers who wished to have replacement glass etched, manufacturers could provide a chemical etching kit directly to the consumer or to the body shop upon request by the vehicle owner.

In conclusion, Nassau stated that the LaserGuard system, engineered and developed in 1990, has been successfully tested and operated in high-volume environments in multiple locations. It believes that the agency's decision not to include glazing as a component subject to the parts-marking requirement was heavily influenced by the concerns expressed by the manufacturers, which were based on different etching technologies.

Discussion

The agency's principal reason for deciding in the final rule not to adopt the proposal to include glazing as a major vehicle component subject to parts-marking was its belief that ''specifying glazing as major parts, may make the costs of parts marking for some manufacturers exceed the $20.86 [1993 dollars] limited specified in [49 U.S.C.] section 33105(a),'' combined with the assertions from commenters that windows are rarely stolen as replacement parts, and that there is no evidence that vehicles are stolen for their glazing materials. 59 FR 64166 (December 13, 1994).

Nassau asserted in its petition that the per-vehicle cost of glass etching using its LaserGuard system is currently about $5. It also stated its belief that the per-vehicle cost would be substantially lower if the system were to be implemented on the assembly lines of the major vehicle manufacturers. It does not state whether its estimated per-vehicle-cost for large-scale use of LaserGuard takes into account the capital investment that manufacturers would be required to make to tool their assembly lines to accommodate the LaserGuard technology. The agency notes that in its petition Nassau states that the system can be adapted to robotics for use on the assembly line. The extent of the adaptations that would be needed and their possible cost is not known.

Even if the agency were to accept the assertion that the per-vehicle cost of laser etching of vehicle glazing would be low enough to keep the per-vehicle cost of parts-marking below the statutory limit, it would be required to consider other factors in deciding whether to mandate etching of vehicle glass. Some commenters on the NPRM raised serious questions about whether etched glazing would be an effective deterrent to vehicle theft. Nassau has countered these assertions with one example of a situation in which a group of vehicles with marked glazing had a very low incidence of theft.

The agency does not believe it has a basis for concluding that it can give any more weight to Nassau's example than to the NPRM comments to the contrary. While it is clear that the vehicles in Nassau's example experienced a low-theft rate, there is no information in Nassau's submission that would enable the agency to make a judgment about whether and to what extent the low-theft rate could be attributed to the fact that the glazing on the vehicles was marked. Further, the entire MY 1993 Nissan 300ZX line had all its windows etched and the theft rate for that line continued to increase from the previous model year.

The agency heretofore has limited designation of parts required to be marked under Part 541 to those parts explicitly listed by Congress and parts that were clearly within the scope of the mandate of the Anti Car Theft Act of 1992 (P.L. 102–519) to add multipurpose passenger vehicles and light-duty trucks to the vehicle categories covered by Part 541. See 59 FR 64166 (December 13, 1994). Because the data on the effectiveness of parts marking in general and marking of glazing in particular is uncertain, and the addition of a requirement to mark glazing would result in additional costs to vehicle and replacement parts manufacturers, the agency has decided that the best course at this time is to limit the scope of the parts-marking requirement to the parts listed in the final rule published December 13, 1994. (59 FR 64166)

For the foregoing reasons, the agency is denying the petition for reconsideration filed by Nassau Technologies, Inc.

Issued on: September 6, 1995.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 95–22594 Filed 9–11–95; 8:45 am]

BILLING CODE 4910–59–P

[Docket No.T95–63; Notice 01]

RIN 2127–AF56

Federal Motor Vehicle Theft Prevention Standard; Preliminary Theft Data

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Publication of preliminary theft data; request for comments.

SUMMARY: This document requests comments on data about passenger motor vehicle thefts that occurred in calendar year (CY) 1993, including theft rates for existing passenger motor vehicle lines manufactured in model year (MY) 1993. The theft data preliminarily indicate that the vehicle theft rate for CY/MY 1993 vehicles (3.90 thefts per thousand vehicles) decreased by 9.5 percent from the theft rate for CY/MY 1992 vehicles (4.31 thefts per thousand vehicles).

Publication of these data fulfills NHTSA's statutory obligation to periodically obtain accurate and timely theft data, and publish the information for review and comment.

DATES: Comments must be submitted on or before November 13, 1995.

ADDRESSES: All comments should refer to the docket number and notice number cited in the heading of this document and be submitted, preferably with ten copies to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590. Docket hours are from 9:30 am to 4:00 pm, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara A. Gray, Office of Market Incentives, NHTSA, 400 Seventh Street, SW, Washington, DC 20590. Ms. Gray's telephone number is (202) 366–1740. Her fax number is (202) 493–2739.

SUPPLEMENTARY INFORMATION: NHTSA administers a program for reducing motor vehicle theft. The central feature of this program is the Federal Motor Vehicle Theft Prevention Standard, 49 CFR Part 541. The standard specifies performance requirements for inscribing or affixing vehicle identification numbers (VINs) onto certain major original equipment and replacement parts of high-theft lines of passenger motor vehicles.

The agency is required by 49 U.S.C. 33104(b)(4) to periodically obtain, from the most reliable source, accurate and timely theft data, and publish the data for review and comment. To fulfill this statutory mandate, NHTSA has published theft data annually every since 1983/84. Continuing to fulfill the § 33104(b)(4) mandate, this document reports the preliminary theft data for CY 1993, the most recent calendar year for which data are available.

In calculating the 1993 theft rates, NHTSA followed the same procedures it used in calculating the MY 1992 theft rates. (For 1992 theft data calculations, see 60 FR 1824, January 5, 1995). As in all previous reports, NHTSA's data were based on information provided to NHTSA by the National Crime Information Center (NCIC) of the Federal Bureau of Investigation. The NCIC is a government system that receives vehicle theft information from nearly 23,000 criminal justice agencies and other law enforcement authorities throughout the United States. The NCIC

data also include reported thefts of self-insured and uninsured vehicles, not all of which are reported to other data sources.

The 1993 theft rate for each vehicle line was calculated by dividing the number of reported thefts of MY 1993 vehicles of that line stolen during calendar year 1993, by the total number of vehicles in that line manufactured for MY 1993, as reported to the Environmental Protection Agency.

The preliminary 1993 theft data show a decrease in the vehicle theft rate when compared to the theft rate experienced in CY/ MY 1992. The preliminary theft rate for MY 1993 passenger vehicles stolen in calendar year 1993 decreased to 3.90 thefts per thousand vehicles produced, a decrease of 9.5 percent from the rate of 4.31 thefts per thousand vehicles experienced by MY 1992 vehicles in CY 1992. For MY 1993 vehicles, out of a total of 213 vehicle lines, 98 lines had a theft rate higher than 3.5826 per thousand vehicles, the established median theft rate for MYs 1990/1991. (See 59 FR 12400, March 16, 1994). Of the 98 vehicle lines with a theft rate higher than 3.5826, 77 are passenger car lines, 17 are multipurpose passenger vehicles lines, and 4 are light-duty trucks lines.

In Table I, NHTSA has tentatively ranked each of the MY 1993 vehicle lines in descending order of theft rate. Public comment is sought on the accuracy of the data, including the data for the production volumes of individual vehicle lines.

All comments must not exceed 15 pages in length (49 CFR Part 553.21). Attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business regulation. (49 CFR Part 512.)

All comments received before the close of business on the comment closing date indicated above for this document will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments on this document will be available for inspection in the docket. NHTSA will continue to file relevant information as it becomes available for inspection in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Authority: 49 U.S.C. 33101, 33102 and 33104; delegation of authority at 49 CFR 1.50.

THEFT RATES OF MODEL YEAR 1993 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 1993

	Manufacturer	Make/model (line)	Thefts 1993	Production (Mfr's) 1993	1993 (per 1,000 vehicles produced) theft rate
1	MITSUBISHI	MONTERO	296	11,221	26.3791
2	CHRYSLER CORP	LEBARON COUPE/CONVERTIBLE	631	26,789	23.5544
3	MERCEDES-BENZ	129	15	780	19.2308
4	FORD MOTOR CO	MUSTANG	1,935	110,616	17.4929
5	VOLKSWAGEN	CABRIOLET	48	2,991	16.0481
6	CHRYSLER CORP	IMPERIAL	89	6,235	14.2743
7	NISSAN	300ZX	115	8,300	13.8554
8	CHRYSLER CORP	PLYMOUTH ACCLAIM	604	49,611	12.1747
9	CHRYSLER CORP	PLYMOUTH SUNDANCE	600	59,749	10.0420
10	MITSUBISHI	PRECIS	16	1,612	9.9256
11	NISSAN	PATHFINDER	394	41,215	9.5596
12	MITSUBISHI	DIAMANTE	235	24,846	9.4583
13	GENERAL MOTORS	OLDSMOBILE CUTLASS CIERA	1,272	135,272	9.4033
14	GENERAL MOTORS	OLDSMOBILE SILHOUETTE APV	98	10,465	9.3645
15	CHRYSLER CORP	DODGE SPIRIT	714	76,503	9.3330
16	NISSAN	NX COUPE	17	1,910	8.9005
17	MITSUBISHI	GALANT/SIGMA	98	11,282	8.6864
18	TOYOTA	4-RUNNER	367	42,257	8.6850
19	HONDA	PRELUDE	187	22,123	8.4527
20	CHRYSLER CORP	DODGE SHADOW	843	102,186	8.2497
21	NISSAN	INFINITI Q45	37	4,517	8.1913
22	GENERAL MOTORS	GMC JIMMY S–15	353	43,412	8.1314
23	NISSAN	MAXIMA	543	67,075	8.0954
24	HYUNDAI	SONATA	125	15,452	8.0896
25	HONDA/ACURA	LEGEND	300	37.488	8.0026
26	CHRYSLER CORP	JEEP WRANGLER	459	59,412	7.7257
27	HONDA	ACCORD	2,290	304,032	7.5321
28	CHRYSLER CORP	LEBARON SEDAN	243	32,480	7.4815
29	GENERAL MOTORS	GEO TRACKER	258	35,201	7.3293
30	MERCEDES-BENZ	140	80	11,041	7.2457
31	CHRYSLER CORP	DODGE DYNASTY	421	58,401	7.2088
32	GENERAL MOTORS	PONTIAC TRANS SPORT APV	184	26,442	6.9586
33	HYUNDAI	EXCEL	294	42,632	6.8962
34	MITSUBISHI	3000GT	83	12,266	6.7667

THEFT RATES OF MODEL YEAR 1993 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 1993—Continued

	Manufacturer	Make/model (line)	Thefts 1993	Production (Mfr's) 1993	1993 (per 1,000 vehicles produced) theft rate
35	CHRYSLER CORP	JEEP CHEROKEE	2,312	345,277	6.6961
36	MAZDA	RX–7	67	10,035	6.6766
37	FORD MOTOR CO	E150 VAN	60	9,236	6.4963
38	GENERAL MOTORS	CHEVROLET LUMINA APV	260	40,613	6.4019
39	HONDA/ACURA	VIGOR	68	10,695	6.3581
40	NISSAN	SENTRA	830	130,991	6.3363
41	GENERAL MOTORS	BUICK CENTURY	764	120,599	6.3350
42	GENERAL MOTORS	OLDSMOBILE BRAVADA	61	9,671	6.3075
43	CHRYSLER CORP	NEW YORKER SALON	131	20,852	6.2824
44	PORSCHE	911	10	1,600	6.2500
45	PORSCHE	928	1	163	6.1350
46	FORD MOTOR CO	LINCOLN TOWN CAR	684	113,596	6.0213
47	MITSUBISHI	MIRAGE	190	32.168	5.9065
48	ISUZU	STYLUS	9	1,544	5.8290
49	HYUNDAI	ELANTRA	205	36,169	5.6678
50	FORD MOTOR CO	THUNDERBIRD	733	129,854	5.6448
51	TOYOTA	MR2	29	5,245	5.5291
52	GENERAL MOTORS	CHEVROLET BLAZER S–10	731	132,616	5.5122
53	CHRYSLER CORP	DODGE B150 RAMCHARGER/VAN	29	5,376	5.3943
54	HONDA/ACURA	INTEGRA	197	36,832	5.3486
55	GENERAL MOTORS	PONTIAC SUNBIRD	471	88,087	5.3470
56	ISUZU	AMIGO	41	7,684	5.3358
58	BMW	5	74	13,975	5.2952
59	GENERAL MOTORS	CHEVROLET BERETTA	194	36,925	5.2539
60	MITSUBISHI	EXPO	58	11,158	5.1981
61	BMW	3	209	40,552	5.1539
62	SUZUKI	SWIFT	55	10,689	5.1455
63	GENERAL MOTORS	CHEVROLET SPORTVAN G–10	11	2,173	5.0621
57	GENERAL MOTORS	CADILLAC DEVILLE/SIXTY SPECIAL	634	125,391	5.0562
64	VOLKSWAGEN	CORRADO	14	2,786	5.0251
65	NISSAN	240SX	107	21,471	4.9835
66	GENERAL MOTORS	CHEVROLET CORVETTE	103	20,764	4.9605
67	HYUNDAI	SCOUPE	56	11,377	4.9222
68	GENERAL MOTORS	CHEVROLET CORSICA	628	127,933	4.9088
69	NISSAN	ALTIMA	480	99,404	4.8288
70	NISSAN	PICKUP TRUCK	541	112,552	4.8067
71	GENERAL MOTORS	GMC RALLY SPORTVAN	5	1,073	4.6598
72	GENERAL MOTORS	PONTIAC GRAND PRIX	491	107,000	4.5888
73	MERCEDES-BENZ	201	35	7,669	4.5638
74	MITSUBISHI	ECLIPSE	247	54,670	4.5180
75	CHRYSLER CORP	DODGE STEALTH	64	14,516	4.4089
76	PORSCHE	968	4	911	4.3908
77	GENERAL MOTORS	PONTIAC LEMANS	33	7,550	4.3709
78	MITSUBISHI	PICKUP TRUCK	39	8,925	4.3697
79	FORD MOTOR CO	LINCOLN MARK VIII	135	30,964	4.3599
80	TOYOTA	CELICA	121	27,794	4.3535
81	NISSAN	INFINITI J30	81	18,785	4.3120
82	TOYOTA	SUPRA	12	2,850	4.2105
83	FORD MOTOR CO	MERCURY TOPAZ	314	76,115	4.1253
84	FORD MOTOR CO	TEMPO	853	208,382	4.0934
85	GENERAL MOTORS	CHEVROLET CAVALIER	962	235,319	4.0881
86	SUBARU	LOYALE	48	11,914	4.0289
87	BMW	8	3	753	3.9841
88	FORD MOTOR CO	MERCURY COUGAR	316	79,780	3.9609
89	MAZDA	929	61	15,651	3.8975
90	GENERAL MOTORS	CHEVROLET ASTRO	431	113,010	3.8138
91	GENERAL MOTORS	PONTIAC GRAND AM	844	224,101	3.7662
92	TOYOTA	COROLLA/COROLLA SPORT	794	211,301	3.7577
93	GENERAL MOTORS	GEO STORM	169	45,000	3.7556
94	VOLKSWAGEN	FOX	60	16,181	3.7081
95	FORD MOTOR CO	FESTIVA	152	41,199	3.6894
96	GENERAL MOTORS	BUICK SKYLARK	207	56,362	3.6727
97	FORD MOTOR CO	PROBE	438	119,920	3.6524
98	GENERAL MOTORS	SATURN SC	184	51,011	3.6071
99	MAZDA	B SERIES PICKUP	133	37,181	3.5771
100	TOYOTA	PASEO	96	26,896	3.5693
101	TOYOTA	LEXUS SC	60	16,891	3.5522
102	TOYOTA	LEXUS LS	100	28,366	3.5253

THEFT RATES OF MODEL YEAR 1993 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 1993—Continued

	Manufacturer	Make/model (line)	Thefts 1993	Production (Mfr's) 1993	1993 (per 1,000 vehicles produced) theft rate
103	SUZUKI	SAMURAI	4	1,139	3.5119
104	BMW	7	32	9,304	3.4394
105	SUZUKI	SIDEKICK	64	18,621	3.4370
106	VOLKSWAGEN	PASSAT	44	12,851	3.4239
107	CHRYSLER CORP	DODGE DAYTONA	31	9,059	3.4220
108	TOYOTA	CAMRY	1,027	302,089	3.3997
109	CHRYSLER CORP	NEW YORKER 5TH AVE	92	27,345	3.3644
110	GENERAL MOTORS	GMC SAFARI	134	40,883	3.2776
111	GENERAL MOTORS	CHEVROLET S–10 PICKUP	567	173,509	3.2678
112	HONDA/ACURA	NSX	2	626	3.1949
113	GENERAL MOTORS	OLDSMOBILE ACHIEVA	135	42,384	3.1852
114	FORD MOTOR CO	LINCOLN CONTINENTAL	82	25,762	3.1830
115	CHRYSLER CORP	DODGE CARAVAN/GRAND	856	272,265	3.1440
116	FORD MOTOR CO	MERCURY CAPRI	25	7,971	3.1364
117	TOYOTA	LEXUS GS	58	18,545	3.1275
118	CHRYSLER CORP	PLYMOUTH VOYAGER/GRAND	651	210,815	3.0880
119	GENERAL MOTORS	CADILLAC ALLANTE	14	4,558	3.0715
120	MAZDA	323/PROTEGE	258	84,282	3.0612
121	TOYOTA	TERCEL	311	101,974	3.0498
122	MAZDA	NAVAJO	17	5,579	3.0471
123	HONDA	CIVIC	843	280,107	3.0096
124	ISUZU	RODEO	123	40,886	3.0084
125	TOYOTA	PICKUP TRUCK	611	207,824	2.9400
126	FORD MOTOR CO	ESCORT	1,141	399,860	2.8535
127	FORD MOTOR CO	CROWN VICTORIA	205	72,065	2.8447
128	CHRYSLER CORP	EAGLE TALON	74	26,105	2.8347
129	GENERAL MOTORS	GEO METRO	209	73,962	2.8258
130	GENERAL MOTORS	CHEVROLET CAPRICE	163	57,723	2.8238
131	CHRYSLER CORP	PLYMOUTH LASER	48	17,178	2.7943
132	FORD MOTOR CO	MERCURY TRACER	208	74,835	2.7794
133	GENERAL MOTORS	PONTIAC FIREBIRD	34	12,327	2.7582
134	GENERAL MOTORS	CHEVROLET CAMARO	93	34,137	2.7243
135	GENERAL MOTORS	CHEVROLET C–1500 PICKUP	636	242,756	2.6199
136	FORD MOTOR CO	TAURUS	1,056	406,215	2.5996
137	ALFA ROMEO	164	1	385	2.5974
138	FORD MOTOR CO	MERCURY SABLE	317	127,406	2.4881
139	CHRYSLER CORP	TOWN & COUNTRY MPV	64	26,057	2.4562
140	VOLVO	850	67	27,482	2.4380
141	GENERAL MOTORS	BUICK REGAL	205	84,571	2.4240
142	FORD MOTOR CO	MERCURY GRAND MARQUIS	201	83,239	2.4147
143	GENERAL MOTORS	CHEVROLET LUMINA	526	222,442	2.3647
144	CHRYSLER CORP	INTREPID	165	70,170	2.3514
145	MAZDA	626/MX–6	301	128,044	2.3508
146	TOYOTA	LEXUS ES	95	41,060	2.3137
147	GENERAL MOTORS	GMC SONOMA	95	41,459	2.2914
148	CHRYSLER CORP	EAGLE SUMMIT	46	20,246	2.2721
149	NISSAN	INFINITI G20	39	17,427	2.2379
150	GENERAL MOTORS	GEO PRIZM	168	75,502	2.2251
151	GENERAL MOTORS	OLDSMOBILE CUTLASS SUPREME	168	75,885	2.2139
152	FORD MOTOR CO	EXPLORER	671	306,845	2.1868
153	MAZDA	MX–5 MIATA	46	21,758	2.1142
154	MAZDA	MX–3	67	31,972	2.0956
155	GENERAL MOTORS	GMC SIERRA C–1500	175	83,764	2.0892
156	SUBARU	LEGACY	138	66,117	2.0872
157	ISUZU	PICKUP	48	23,476	2.0446
158	GENERAL MOTORS	CADILLAC ELDORADO	41	20,540	1.9961
159	VOLVO	960	13	6,826	1.9045
160	VOLVO	940	43	22,767	1.8887
161	JAGUAR	XJS	3	1,625	1.8462
162	TOYOTA	PREVIA	67	36,970	1.8123
163	CHRYSLER CORP	EAGLE VISION	51	28,642	1.7806
164	FORD MOTOR CO	RANGER PICKUP	593	333,277	1.7793
165	GENERAL MOTORS	CADILLAC SEVILLE	58	32,968	1.7593
166	CHRYSLER CORP	CONCORDE	84	49,483	1.6976
167	CHRYSLER CORP	DODGE DAKOTA PICKUP	211	127,043	1.6609
168	GENERAL MOTORS	PONTIAC BONNEVILLE	163	99,076	1.6452
169	ISUZU	TROOPER	29	17,982	1.6127
170	MAZDA	MPV WAGON	48	30,069	1.5963

THEFT RATES OF MODEL YEAR 1993 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 1993—Continued

	Manufacturer	Make/model (line)	Thefts 1993	Production (Mfr's) 1993	1993 (per 1,000 vehicles produced) theft rate
171	GENERAL MOTORS	BUICK RIVIERA	7	4,437	1.5776
172	NISSAN	QUEST	39	25,190	1.5482
173	AUDI	90	13	8,501	1.5292
174	FORD MOTOR CO	AEROSTAR	377	248,494	1.5171
175	SAAB	900	15	9,943	1.5086
176	JAGUAR	XJ6	12	8,003	1.4994
177	CHRYSLER CORP	DODGE COLT/COLT VISTA	55	38,339	1.4346
178	GENERAL MOTORS	OLDSMOBILE CUTLASS CRUISER	9	6,330	1.4218
179	MERCEDES-BENZ	124	35	25,290	1.3839
180	VOLVO	240	20	14,985	1.3347
181	AUDI	S4	1	756	1.3228
182	GENERAL MOTORS	OLDSMOBILE 88 ROYALE	73	58,942	1.2385
183	GENERAL MOTORS	CADILLAC FLEETWOOD	32	26,899	1.1896
184	SAAB	9000	10	9,745	1.0262
185	SUBARU	IMPREZA	40	40,584	0.9856
186	CHRYSLER CORP	PLYMOUTH COLT/COLT VISTA	37	38,339	0.9651
187	GENERAL MOTORS	BUICK PARK AVENUE	42	51,244	0.8196
188	GENERAL MOTORS	BUICK LESABRE	117	143,724	0.8141
189	GENERAL MOTORS	BUICK ROADMASTER	28	36,289	0.7716
190	VOLKSWAGEN	JETTA	5	6,494	0.7699
191	AUDI	100	5	6,764	0.7392
192	GENERAL MOTORS	SATURN SL	122	165,754	0.7360
193	GENERAL MOTORS	OLDSMOBILE 98/TOURING	13	18,857	0.6894
194	VOLKSWAGEN	GOLF/GTI	2	2,946	0.6789
195	FORD MOTOR CO	F150 PICKUP TRUCK	268	436,016	0.6147
196	FORD MOTOR CO	MERCURY VILLAGER (MPV)	52	94,655	0.5494
197	SUBARU	JUSTY	2	4,071	0.4913
198	CHRYSLER CORP	DODGE RAM PICKUP D150	6	13,349	0.4495
199	GENERAL MOTORS	SATURN SW	4	13,821	0.2894
200	ALFA ROMEO	SPIDER	0	509	0.0000
201	CHRYSLER CORP	DODGE VIPER	0	910	0.0000
202	FERRARI	348	0	70	0.0000
203	FERRARI	512	0	91	0.0000
204	FERRARI	MONDIAL	0	24	0.0000
205	JAGUAR	XJRS	0	99	0.0000
206	KIA MOTORS	SEPHIA	0	200	0.0000
207	LAMBORGHINI	DIABLO	0	13	0.0000
208	LOTUS	ESPIRIT	0	113	0.0000
209	PEUGEOT	405	0	14	0.0000
210	ROLLS-ROYCE	CORNICHE/CONTINENTAL	0	145	0.0000
211	ROLLS-ROYCE	SIL SPIRIT/SPUR/MULS/EIGHT	0	99	0.0000
212	ROLLS-ROYCE	TURBOR R	0	36	0.0000
213	SUBARU	SVX	0	302	0.0000

Issued on: September 6, 1995.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 95–22584 Filed 9–11–95; 8:45 am]

BILLING CODE 4910–59–P

Federal Aviation Administration

[Docket No. 27782]

RIN 2120–AF90

Proposed Policy Regarding Airport Rates and Charges

AGENCY: Department of Transportation (DOT), Federal Aviation Administration (FAA).

ACTION: Notice of meeting.

SUMMARY: On September 8, 1995, the Department of Transportation and the Federal Aviation Administration published a supplemental notice of a proposed policy statement in the **Federal Register** with respect to fair and reasonable and not unjustly discriminatory airport rates and charges and announced that at least two meetings for oral views would be held. The proposed policy statement sets forth DOT/FAA policy regarding airport practices that DOT/FAA would consider to be consistent with Federal requirements for airport rates and charges for aeronautical uses. This notice announces the date, time, location and procedures for the first meeting. A separate notice will be published about additional meetings.

DATES: The public meeting will be held on September 20, 1995, starting at 10 a.m. Pursuant to the September 8, 1995 Supplemental Notice, written comments are also invited and must be received on or before October 23, 1995.

ADDRESSES: The public meeting will be held at the Worthington Hotel, 200 Main Street, Fort Worth, Texas 76102. Overnight accommodations are available at the hotel, at the government rate of $71.00 per night. Reservations may be made by phoning 1–800–433–5677 and referring to the FAA public hearing. Persons unable to attend the meeting may mail their comments in quadruplicate to: Federal Aviation Administration, Office of Chief Counsel, Attention: Rules Docket (AGC–200),

Dockets No. 27782, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Requests to participate in public meeting should be directed to Mayte Agosto at (202) 267–8972 or Kevin Hehir at (202) 267–8224, Federal Aviation Administration, Airport Safety and Compliance Branch, AAS–311, 800 Independence Ave. SW., Washington, DC 20591.

Questions concerning the subject matter of the meeting may be directed to Barry Molar, Federal Aviation Administration, Airports Law Branch, AGC–610, 800 Independence Ave. SW., Washington, DC 20591; telephone (202) 267–3473.

The full text of the Supplemental Notice is also available on the Office of Airport Safety and Standards Electronic Bulletin Board. Persons with a computer and modem, and communications software, can access the bulletin board by setting the modem parameters to match those of the bulletin board before dialing. Upon connection with the bulletin board for the first time, users are required to register by answering a short questionnaire. The bulletin board is menu-driven, and detailed instructions for downloading files are provided. The Supplemental Notice cannot be read on-line, but can be easily downloaded and saved.

The bulletin board parameters are as follows:

Telephone number: (202) 267–5205, or
1–800–224–6287 via FAA Corporate Bulletin Board
Data bits: 8
Parity: None
Stop bits: 1
Baud rate: 300/1200/2400/9600/14400
System operator: Jeff Rapol, AAS–200
(202) 267–7474

SUPPLEMENTARY INFORMATION:

Participation at the Meeting

Requests from persons who wish to participate at the public meeting should be received by the FAA no later than September 15, 1995. Such requests should be submitted to Mayte Agosto as listed in the section title **FOR FURTHER INFORMATION CONTACT** and should include a statement of the interest represented by the speaker, e.g., as a representative of an airport proprietor, an air carrier, a foreign air carrier, or other aeronautical user. Requests received after the date specified above will be scheduled if they can be accommodated, but in view of the format for presentation, as discussed below, accommodation of late requests cannot be assured. The FAA will prepare an agenda of speakers that will be available at the time of the meeting.

Background

On September 8, 1995, the DOT and FAA jointly published in the **Federal Register** a supplemental notice of proposed policy regarding fair and reasonable nondiscriminatory airport rates and charges. Specifically, the supplemental notice of proposed policy sets forth proposed revisions to the interim final policy on airport rates and charges published jointly by the DOT and FAA on February 3, 1995 (60 FR 6906). In the February 3 publication, DOT/FAA requested comments on the interim policy, and the supplemental notice reflects DOT/FAA consideration of the comments received. DOT/FAA have published the supplemental notice of proposed policy for comment and are conducting public meetings to assure that any modifications in the interim policy are based on as full an understanding of the industry practices as possible and to provide a full opportunity for industry input into the policy. The meetings will be structured to permit informal discussion among the various interested parties rather than simply delivery of prepared comments for the record.

Meeting Procedures

The following procedures are established to facilitate the meeting:

(1) There will be no admission fee or other charge to attend or to participate in the meeting. The meeting will be open to all persons who have requested in advance to participate. Registration will be available on the day of the meeting (between 9:00 a.m. and 10:00 a.m.). However, in view of the format of the meetings, there is no assurance that persons who register on the day of the meeting will have the opportunity to fully participate.

(2) There will be a morning and afternoon break as well as a break for lunch.

(3) The meeting may adjourn early if scheduled panels of speakers complete their presentations in less time than is scheduled for the meeting.

(4) DOT/FAA will try to accommodate all speakers in the context of the format for this public meeting. However, the FAA reserves the right to exclude some speakers if necessary to assure that all panels represent a balance of viewpoints and concerns.

(5) Sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested at the above number by September 15, 1995.

(6) Representatives of the FAA will preside over the meeting. A panel of DOT and FAA personnel will hear comments and question other participants. Presentations by commenters will be made on panels of up to 5 persons, rather than individually. The Department will assign interested persons to panels before the meeting, and will attempt to have each panel representative of different segments of the industry. At a minimum, each panel should include both airline and airport representatives.

(7) Each participant on a panel may make a brief opening statement and submit written materials for the record. After completion of the statements by all members of the panel, agency personnel will question commenters on their statements and views, and may inquire into commenters' experience with specific industry practices. Appropriate questions may be directed by one panel member to another, through the agency moderator. Questions and comments from the floor will be taken if time permits.

(8) Opening statements will be limited to 2 minutes. Each panel will be limited to no more than one hour. The meeting will include as many panels as are necessary to accommodate all interested commenters.

(9) The meeting will be recorded by a court reporter. A transcript of the meeting and any material accepted by the panel during the meeting will be included in the public docket. Any person who is interested in purchasing a copy of the transcript should contact the court reporter directly. This information will be available at the meeting.

(10) The DOT/FAA will review and consider all material presented by participants at the meeting. Position papers or material presenting views or information related to the proposed policy statement may be accepted at the discretion of the presiding officer and subsequently placed in the public docket. The FAA requests that persons participating in the meeting provide 10 copies of all materials to be presented for distribution to the panel members; other copies may be provided to the audience at the discretion of the participant.

(11) Statements made by members of the meeting panel are intended to facilitate discussion of the issues or to clarify issues. Any statement made during the meeting by a member of the panel is not intended to be, and should not be construed as, a position of the FAA.

Issued in Washington, DC, on September 8, 1995.

Cynthia Rich,

Assistant Administrator for Airports.

[FR Doc. 95–22735 Filed 9–11–95; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Financial Management Service

Privacy Act of 1974, as Amended; New System of Records

AGENCY: Financial Management Service, Treasury.

ACTION: Notice of proposed system of records.

SUMMARY: The Department of the Treasury, Financial Management Service (FMS), proposes to add a new record system entitled ''Payment Records for Other than Regular Recurring Benefit Payments—Treasury/Financial Management Service—Treasury/FMS .016,'' to its inventory of systems of records subject to the Privacy Act of 1974, as amended (5 U.S.C. 552a).

DATES: Comments must be received no later than October 12, 1995. The proposed system of records will be effective October 23, 1995, unless FMS receives comments which would result in a contrary determination.

ADDRESSES: Comments must be submitted to Debt Management Services, Financial Management Service, 401 14th Street, SW, Room 151, Washington, DC 20227. Comments received will be available for inspection at the same address between the hours of 9 a.m. and 4 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Gerry Isenberg, Debt Management Services, (202) 874–6660.

SUPPLEMENTARY INFORMATION: The purpose of this system is to facilitate the disbursement of Federal payments to individuals, corporations and other entities. Currently, FMS has a system of records entitled ''Payment Issue Records for Regular Recurring Benefit Payments—Treasury/FMS .002,'' however, this system of records covers only six types of Federal payments. The proposed system is intended to include all records for payments not included in Treasury/FMS .002 such as vendor payments, Federal salary payments, and Veterans' benefit payments.

FMS is the central disbursing source for the Federal Government and currently receives recurring and non-recurring payment certification records from departments and agencies of the Government.

Currently, information contained in the payment records of FMS (not included in Treasury/FMS .002) is not retrievable by personal identifier, and these records have not been considered a ''system of records'' under the Privacy Act of 1974.

FMS has been designated by the Office of Management and Budget as the lead agency in credit management and debt collection for the Federal Government. FMS is establishing this system of records to more effectively apply certain debt collection tools established under Federal law such as tax refund offset under section 31 U.S.C. 3720A, administrative offset under 31 U.S.C. 3716, and Federal employee salary offset under 5 U.S.C. 5514. FMS also intends to use this system to report vendor payments to the Internal Revenue Service (IRS) in accordance with 26 U.S.C. 6041.

In order to facilitate the collection of delinquent debts and the reporting of vendor payments to IRS, FMS intends to obtain personal identifier(s) as part of payment certifications received from departments and agencies. This action will not result in any additional data collection from the public since the departments and agencies already have this information. However, it will change the status of the non-recurring payment records maintained by FMS to a ''system of records'' as defined by the Privacy Act of 1974.

Given the nature of the information that will be maintained and its proposed use, the Privacy Act of 1974, as amended, 5 U.S.C. 552a, requires FMS to give general notice and seek public comments.

The new system report, as required by the Privacy Act of 1974, was submitted to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget (OMB), pursuant to Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated July 15, 1994 (59 FR 37914, July 25, 1994).

Dated: August 29, 1995.

Alex Rodriguez,

Deputy Assistant Secretary (Administration).

Treasury/FMS .016

SYSTEM NAME:

Payment Records for Other Than Regular Recurring Benefit Payments-Treasury/Financial Management Service.

SYSTEM LOCATION:

The Financial Management Service, U.S. Department of the Treasury, Washington, DC 20227. Records maintained at Financial Centers in six regions: Austin, TX; Birmingham, AL; Chicago, IL; Kansas City, MO; Philadelphia, PA; and San Francisco, CA.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who are the intended recipients or recipients of payments from the United States Government, and for whom vouchers have been certified for payment by departments or agencies and sent to FMS for disbursement.

CATEGORIES OF RECORDS IN THE SYSTEM:

Payment records showing name, social security or employer identification number or other agency identification number, address, payment amount, date of issuance, check number and symbol or other payment identification number, routing number of the payee's financial institution and the payee's account number at the financial institution, vendor contract and/or purchase order, and the name and location number of the certifying department or agency.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Executive Order 6166, dated June 10, 1933.

PURPOSE:

To facilitate disbursement of Federal monies to individuals by check or electronically, authorized under various programs of the Federal Government.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used to: (1) Disclose to the banking industry for payment verification; (2) disclose to Federal agencies, departments and agencies for whom payments are made, and payees; (3) disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (4) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or

the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (5) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (6) disclose information to foreign governments in accordance with formal or informal international agreements; (7) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (8) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (9) provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114; (10) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (11) disclose information concerning delinquent debtors to Federal creditor agencies, their employees, or their agents for the purpose of facilitating or conducting Federal administrative offset, Federal tax refund offset, Federal salary offset, or for any other authorized debt collection purpose; and (12) disclose to the Defense Manpower Data Center and the United States Postal Service and other Federal agencies through authorized computer matching programs for the purpose of identifying and locating individuals who are delinquent in their repayment of debts owed to the Department or other Federal agencies in order to collect those debts through salary offset and administrative offset, or by the use of other debt collection tools.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Storage is on magnetic media and hard copy.

RETRIEVABILITY:

Records are retrieved by name, employer identification number (EIN) and social security number.

SAFEGUARDS:

These records are available only to those persons whose official duties require such access. Records are kept in limited access areas during duty hours and in locked cabinets at all other times. Records are password protected and are maintained in a building subject to 24-hour security.

RETENTION AND DISPOSAL:

Records are retained for three years. Records are disposed of in accordance with Treasury Directive 25–02, Records Disposition Management Program.

SYSTEM MANAGER(S) AND ADDRESSES:

Chief Disbursing Officer, Financial Management Service, 401 14th Street, SW, Washington, DC 20227.

NOTIFICATION PROCEDURE:

Inquiries under the Privacy Act of 1974 shall be sent to the Disclosure Officer at 401 14th Street, SW, Washington, DC 20227. All individuals making inquiries should provide with their request as much descriptive matter as is possible to identify the particular record desired. The System Manager will advise as to whether the Service maintains the record requested by the individual.

RECORD ACCESS PROCEDURES:

Individuals requesting information under the Privacy Act of 1974 concerning procedures for gaining access or contesting records should write to the Disclosure Officer at the address shown above. All individuals are urged to examine the rules of the U.S. Department of the Treasury published in 31 CFR part 1, subpart C concerning requirements of this department with respect to the Privacy Act of 1974.

CONTESTING RECORD PROCEDURES:

See Record Access Procedures above.

RECORD SOURCE CATEGORIES:

Information is obtained from vouchers, payment tapes and electronic data transmissions via the Electronic Certification System by departments and agencies for whom payments are made.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 95–22553 Filed 9–11–95; 8:45 am]

BILLING CODE 4810–35–P

Fiscal Service

[Dept. Circ. 570, 1995 Rev., Supp. No. 1]

Surety Companies Acceptable on Federal Bonds; RLI Insurance Co.

A Certificate of Authority as an acceptable surety on Federal Bonds is hereby issued to the following company under sections 9304 to 9308, Title 31, of the United States Code. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1995 Revision, on page 34446 to reflect this addition:

RLI Insurance Company BUSINESS ADDRESS: 9025 N. Lindbergh Drive, Peoria, Illinois 61615 PHONE: (309) 692–1000. UNDERWRITING LIMITATION *b/*: $11,642,000. SURETY LICENSES *c/*: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois

Certificates of Authority expire on June 30 each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the companies remain qualified (31 CFR part 223). A list of qualified companies is published annually as of July 1 in Treasury Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information.

Copies of the Circular may be obtained by calling the U.S. Department of the Treasury, Financial Management Service, computerized public bulletin board system (FMS Inside Line) at (202) 874–6817/7034/6953/6872 or by purchasing a hard copy from the Government Printing Office (GPO), Washington, DC, telephone (202) 512–1800. When ordering the Circular from GPO, use the following stock number: 048–000–00489–0.

For further assistance, contact the U.S. Department of the Treasury, Financial Management Service, Funds Management Division, Surety Bond Branch, 3700 East-West Highway, Room 6F04, Hyattsville, MD 20782, telephone (202) 874–6905 or (202) 874–9978 (fax).

Dated: August 23, 1995.

Charles F. Schwan III,

Director, Funds Management Division, Financial Management Service.

[FR Doc. 95–22623 Filed 9–11–95; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF VETERANS AFFAIRS

Medical Research Services Cooperative Studies Evaluation Committee; Notice of Meeting

The Department of Veterans Affairs gives notice under Public Law 92–463 (Federal Advisory Committee Act) as amended, by section 5(c) of Public Law 94–409 that a meeting of the Medical Research Services Evaluation Committee will be held at the Back Bay

Hilton Hotel, 40 Dalton Street, Boston, MA on November 7–8, 1995. The session on November 7 is scheduled to begin at 7:30 a.m. and end at 5:30 p.m. and on November 8 from 7:30 a.m. to 6:00 p.m. The meeting will be for the purpose of reviewing six new protocols for multi-hospital clinical trials: one on treatment of PTSD; one on treatment of alcoholism; one on atherosclerosis; one on prevention of skin cancer; one on atrial fibrillation; one on vascular surgery and the progress of two on-going cooperative studies, one on aneurysm detection and one on cholesterol and heart diseases.

The Committee advises the Director, Medical Research Service, through the Chief of the Cooperative Studies Program on the relevance and feasibility of the studies, the adequacy of the protocols, and the scientific validity and propriety of technical details, including protection of human subjects.

The meeting will be open to the public up to the seating capacity of the room from 7:30 a.m. to 8:00 a.m. on both days to discuss the general status of the program. To assure adequate accommodations, those who plan to attend should contact Dr. Ping Huang, Coordinator, Medical Research Service Cooperative Studies Evaluation Committee, Department of Veterans Affairs, Washington, DC (202–565–7154), prior to October 15, 1995.

The meeting will be closed from 8:00 a.m. to 5:30 p.m. on November 7, 1995 and from 8:00 a.m. to 6:00 p.m. on November 8, 1995 for consideration of specific proposal in accordance with provisions set forth in section 10(d) of Pub. L. 92–463, as amended by section 5(c) of Pub. L. 94–409, and 5 U.S.C. 552b (c)(6). During this portion of the meeting, discussions and recommendations will deal with qualifications of personnel conducting the studies, staff and consultant critiques of research protocols, and similar documents, and the medical records of patients who are study subjects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dated: August 31, 1995.

By Direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 95–22554 Filed 9–11–95;8:45am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register

Vol. 60, No. 176

Tuesday, September 12, 1995

This section of the FEDERAL REGISTER contains notices of meetings published under the ''Government in the Sunshine Act'' (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

ASSASSINATION RECORDS REVIEW BOARD

TIME AND DATE: 9:00 a.m., September 20–21, 1995.

PLACE: ARRB, 600 E Street, NW, 2nd Floor, Washington, DC.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

September 20, 9:00 a.m.: Closed Meeting

1. Review and Accept Minutes of August Closed Meetings.
2. Review of Assassination Records.
3. Other Business.

September 21, 9:00 a.m.: Open Meeting

1. Review and Accept Minutes of August 3 Open Meeting.
2. Discuss and Vote on Privacy Act Regulation and other notices for **Federal Register.**
3. Other Business.

September 21, 10:00 a.m.: Continuation of Closed Meeting

CONTACT PERSON FOR MORE INFORMATION: Thomas Samoluk, Associate Director for Communications, 600 E Street, NW, Second Floor, Washington, DC 20530. Telephone: (202) 724–0088; Fax: (202) 724–0457.

David G. Marwell,

Executive Director.

[FR Doc. 95–22706 Filed 9–8–95; 8:45 am]

BILLING CODE 6820–TD–M

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Notice is hereby given of an open meeting of the Defense Nuclear Facilities Safety Board (Board) with representatives of the Department of Energy (DOE) regarding the Department's standards-based safety management program. The purpose of the meeting is twofold: (1) For DOE to provide information to the Board regarding the status of DOE's review and revision of nuclear safety Orders and rules, and (2) to allow the Deputy Secretary of Energy to obtain the preliminary advice of individual Board members in identifying any significant safety issues raised by the Board's review of draft revisions to date. No Board decision will be reached, nor will agency business be finally disposed of during the session. This meeting is noticed pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. § 552b), notice of the open meeting is a part of the Board's continuing effort to inform the public regarding DOE's standards-based safety management program.

TIME AND DATE: 10:00 a.m., September 20, 1995.

PLACE: The Department of Energy, Room 8E–089, 1000 Independence Avenue, SW., Washington, DC 20585.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Board and the Deputy Secretary of Energy will convene a joint consultative session regarding DOE's standards-based safety management program. 42 U.S.C. § 2286b requires the Board to continuously review and evaluate the content and implementation of standards relating to the design, construction, operation, and decommissioning of defense nuclear facilities of DOE. Those standards include rules, DOE safety Orders, and other requirements. The Board, acting pursuant to its enabling statute, has issued a series of recommendations (most notably 90–2 and 94–5) designed to foster the development of an effective standards-based nuclear safety program within DOE. The Secretary of Energy has accepted each of these recommendations. In the meantime, DOE is engaged in a number of initiatives designed to simplify existing safety Orders and to promulgate new and more effective safety rules. The Secretary of Energy's commitment to implementing Board recommendations calling for an effective standards-based safety management program will require careful integration with these recent DOE initiatives. The Board has already held two open Board meetings regarding its review of DOE efforts to revise and improve nuclear safety requirements. This will be the third session in that series. Since the Board's statutory responsibility for oversight of nuclear safety standards for DOE facilities is a continuing one, additional meetings are anticipated.

CONTACT PERSON FOR MORE INFORMATION: Robert M. Anderson, General Counsel, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW, Suite 700, Washington, DC 20004, (800) 788–4016. This is a toll free number.

SUPPLEMENTAL INFORMATION: DOE has the responsibility to conduct its operations in a manner that protects public health and safety and the environment. One of the ways that DOE accomplishes this is through its rules, orders, and directives systems, which directly govern the conduct of DOE's defense nuclear activities.

The Board has a responsibility for oversight of DOE's development of nuclear health and safety requirements at defense nuclear facilities. DOE is now embarked upon a transition from the use of safety Orders to rules to manage its requirements-based safety program. The Board's most recent effort to ensure that the ''good engineering practices'' codified in DOE's safety Orders are maintained was expressed in its Recommendation 94–5, dated December 29, 1995. Recommendation 94–5, in its entirety, is on file in DOE's Public Reading Rooms, at the Defense Nuclear Facilities Safety Board's Washington office, and on the Internet through access to the Board's electronic bulletin board at the following address: gopher://gopher.dnfsb.gov:7070. It is also set forth in the **Federal Register** at 60 FR 2089.

The Deputy Secretary of Energy seeks early notice of any safety issues which the Board may have identified in the draft revised rules and Orders. In accord with the statute establishing the Board, a public session will be conducted in which individual Board members may provide preliminary advice to the Deputy Secretary on matters needing further DOE review and to receive information from DOE on how rules, Orders, and other safety requirements are being revised and integrated into an overall safety management program for defense nuclear facilities.

A transcript of this proceeding will be made available by the Board for inspection by the public at the Defense Nuclear Facilities Safety Board's Washington office.

The Board also intends to notice and conduct further public hearings pursuant to 42 U.S.C. § 2286b, at a later date, to assess DOE's progress in implementing an effective standards-based safety program for DOE's defense nuclear facilities and to assure that DOE's activities in streamlining DOE's nuclear safety order system and converting to a regulatory program do not eliminate the engineering practices

now codified in its safety Orders that are necessary to adequately protect public health and safety.

Dated: September 8, 1995.

John T. Conway,

Chairman.

[FR Doc. 95–22770 Filed 9–8–95; 3:06 pm]

BILLING CODE 3670–01–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Monday, September 18, 1995.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: September 8, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–22774 Filed 9–8–95; 3:07 pm]

BILLING CODE 6210–01–P

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of September 11, 18, 25, and October 2, 1995.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public.

MATTERS TO BE CONSIDERED:

Week of September 11

Monday, September 11

1:30 p.m.
Briefing on Status of Watts Bar Licensing (Public Meeting)
(Contact: Steve Varga, 301–415–1403)

3:30 p.m.
Affirmation Session (Public Meeting)
(Please Note: These items will be affirmed immediately following the conclusion of the preceding meeting.)
a. Revisions to Regulatory Requirements for Reactor Pressure Vessel Integrity in 10 CFR Part 50 (Tentative)
b. Final Amendment to 10 CFR Part 50, Appendix J, ''Containment Leakage Testing,'' to Adopt Performance-Oriented and Risk-Based Approaches (Tentative)
(Contact: Andrew Bates, 301–415–1963)

Tuesday, September 12

10:30 a.m. and 1:30 p.m.
All Employees Meetings (Public Meetings) on ''The Green'' Plaza Area between buildings at White Flint
(Contact: Beth Hayden, 301–415–8200)

Week of September 18—Tentative

There are no meetings scheduled for the Week of September 18.

Week of September 25—Tentative

There are no meetings scheduled for the Week of September 25.

Week of October 2—Tentative

Tuesday, October 3

10:00 a.m.
Briefing by National Academy of Sciences (NAS) on Recommendations for Technical Bases of Yucca Mountain Standards (Public Meeting)

Note: The Nuclear Regulatory Commission is operating under a delegation of authority to Chairman Shirley Ann Jackson, because with three vacancies on the Commission, it is temporarily without a quorum. As a legal matter, therefore, the Sunshine Act does not apply; but in the interests of openness and public accountability, the Commission will conduct business as though the Sunshine Act were applicable.

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (Recording)—(301) 415–1292.

CONTACT PERSON FOR MORE INFORMATION: Bill Hill (301) 415–1661.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1963).

In addition, distribution of this meeting notice over the internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to alb@nrc.gov or gkt@nrc.gov.

Dated: September 7, 1995.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 95–22704 Filed 9–8–95; 11:21 am]

BILLING CODE 7590–01–M

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

Board of Directors Meeting

ACTION: The Pennsylvania Avenue Development Corporation announces the date of their forthcoming quarterly meeting of the Board of Directors.

DATE: A regular open meeting will be held Wednesday, September 27, 1995, at 10:00 a.m.

ADDRESS: The meeting will be held at the Pennsylvania Avenue Development Corporation, Suite 1220 North, 1331 Pennsylvania Avenue, N.W., Washington, D.C.

SUPPLEMENTARY INFORMATION: This meeting is held in accordance with 36 Code of Federal Regulations Part 901, and is open to the public.

Dated: September 7, 1995.

Lester M. Hunkele III,

Executive Director.

[FR Doc. 95–22663 Filed 9–7–95; 4:57 pm]

BILLING CODE 7630–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of September 11, 1995.

A closed meeting will be held on Thursday, September 14, 1995, at 10:30 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meetings. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Wallman, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Thursday, September 14, 1995, at 10:30 a.m., will be:

Institution of injunctive actions.
Settlement of injunctive actions.
Institution of administrative proceedings of enforcement nature.
Settlement of administrative proceedings of an enforcement nature.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary (202) 942–7070.

Dated: September 7, 1995.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–22710 Filed 9–8–95; 11:24 am]

BILLING CODE 8010–01–M

Federal Register

Tuesday
September 12, 1995

Part II

Department of Transportation

Federal Transit Administration

49 CFR Part 661

Buy America Requirements; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

49 CFR Part 661

[Docket No. FTA–95–471]

RIN 2132–AA42

Buy America Requirements

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice of proposed rulemaking seeks to implement section 1048 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240) (ISTEA), which amended the Federal Transit Administration's (FTA) Buy America requirements. FTA requests comments on its proposed implementation of the statutory provisions and on other proposed amendments intended to update and clarify its Buy America regulation, 49 CFR Part 661.

DATES: Comments must be received on or before November 13, 1995.

ADDRESSES: All comments concerning these proposed regulations should be sent to Docket Clerk, Docket No. FTA–95–471, Department of Transportation, Room PL–401, 400 Seventh Street SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Rita Daguillard, Office of the Chief Counsel, (202) 366–1936.

SUPPLEMENTARY INFORMATION:

I. The ISTEA Amendments

A. Addition of ''Iron'' (§§ 661.5(a)–(c))

Section 1048 of ISTEA amends 49 U.S.C. 5323(j) by adding ''iron'' to the products covered, and by inserting two new subsections concerning waivers of the Buy America requirements. By adding the word ''iron,'' Congress has extended Buy America protection to iron and iron products, in addition to steel and manufactured products, which were previously protected. FTA intends to amend 49 CFR 661.5 (a) and (b) to reflect this statutory amendment. FTA also proposes to amend 49 CFR 661.5(c) to specify that both the iron and steel requirements apply to items made primarily from those materials and used in construction and rail projects. These items include, but are not limited to, structural steel or iron, steel or iron beams and columns, running rail and contact rail. These requirements do not apply to steel or iron used as components or subcomponents of other manufactured products or rolling stock. FTA seeks comment on this proposed amendment of 49 CFR 661.5(c).

B. Intentional Violations (§ 661.18)

Section 1048(b) amends 49 U.S.C. 5323(j) by inserting subsection (5), which states that any person determined by a Federal agency or court to have affixed a false ''Made In America'' label to or misrepresented the origin of a foreign product, shall be ineligible to receive contracts funded by ISTEA, pursuant to suspension and debarment proceedings. FTA intends to add new section 661.18 to implement this statutory change.

C. Limitation on Applicability of Waivers (§ 661.7)

Section 1048(b) also amends 49 U.S.C. 5323(j) by adding subsection (4), which provides that if a foreign country is party to an agreement with the United States under which the Buy America requirements are waived, and the foreign country violates the agreement by discriminating against U.S. goods, products from that country shall not be eligible for waivers under 49 U.S.C. 5323(j). FTA notes that there is currently no agreement between the United States and a foreign country which waives the Buy America requirements. FTA therefore considers this provision inoperative at the present time. FTA intends to amend 49 CFR 661.7 to add a new subsection that will reflect this statutory change, and seeks comment on whether its conclusion that 49 U.S.C. 5323(j)(4) is not applicable at this time requires further discussion or expansion.

II. Amendments to Update and Clarify the Buy America Regulation

FTA also seeks to update the regulation by removing provisions that are no longer applicable, and to clarify certain other provisions.

A. Definition of ''Component'' (§ 661.3)

49 CFR Part 661, consistent with the Surface Transportation Assistance Act of 1982 (STAA) and the Surface Transportation and Uniform Relocation Assistance Act (STURAA), establishes separate requirements for manufactured products and for rolling stock. To be considered domestic, rolling stock must be assembled in the United States and 60 percent of its components, by cost, must be of U.S. origin. For a manufactured product to be considered domestic, all manufacturing processes must take place in the United States and all of its components must be of U.S. origin. In both cases, then, to determine compliance with the Buy America requirements, it is necessary to identify those parts of a product which may be considered components.

Section 661.11, which sets out the separate requirements for rolling stock, defines, at subsection (e), component as ''any article, material, or supply, whether manufactured or unmanufactured, that is directly incorporated into the end product at the final assembly location.''

However, many suppliers of manufactured products have pointed out to the FTA that neither section 661.3 (general definitions) nor section 661.5 (requirements for manufactured products) contains a similar definition of component. They have therefore asked FTA for guidance in determining what constitutes a component of a manufactured product.

FTA notes that the definition of component of subsection 661.11(e) parallels that of the Federal Acquisition Regulations implementing the Buy American Act of 1933 (49 U.S.C. § 10a–d), which applies to manufactured products generally. FTA therefore considers that it is appropriate to apply this definition to components of manufactured products as well as to components of rolling stock. Accordingly, FTA proposes to add it to the definitions provision of the regulation, section 661.11(3).

B. Component Requirement for Manufactured Products (§ 661.5(d)(2))

Section 165(b)(3) of the STAA, as amended by section 337 of STURAA, imposes domestic preference requirements on the subcomponents of components of rolling stock and associated equipment. No such similar statutory changes were made to section 165(a) for manufactured products. Therefore, the agency concluded that a manufactured product is of domestic origin if it is manufactured in the United States. In other words, in determining the origin of a component of a manufactured product governed by section 165(a), FTA will look only to where the product is manufactured, and will not look to the origin of the various materials included in the product during the manufacturing process.

However, subsection 661.5(d)(2) of the regulation provides that for a manufactured product to be considered of U.S. origin, ''all items or material used in the product must be of United States origin.'' In FTA's experience, the language of this provision has often created the incorrect assumption that in determining the origin of a manufactured product, FTA will consider all of its material content, even at the subcomponent level and below. In order to correct this misperception, FTA proposes to amend subsection 661.5(d)(2) to state that for a

manufactured product to be considered of domestic origin, all of its components must be of United States origin. This amended provision will also state that a component will be considered of U.S. origin if it is manufactured in the United States, regardless of the origin of its subcomponents.

C. Determination of Grandfathered Companies (§ 661.10)

Section 337 of the STURAA provided for a gradual increase in the domestic content requirements for buses and other rolling stock from 50 percent to 60 percent. Section 337(a)(2)(B) of STURAA stated that these revised requirements would not apply to any contract entered into prior to April 1, 1992, with any supplier or contractor or any successor in interest or assignee which had complied with the previous domestic content requirements. Section 661.10 of the regulation sets out the criteria for determining whether a company could qualify for grandfather treatment.

Since the April 1, 1992, deadline has elapsed, and since there is little likelihood that contracts for rolling stock executed prior to that date are still outstanding, FTA will delete this grandfather provision from its Buy America regulation.

D. Domestic Content Requirements for Rolling Stock (§§ 661.11(a)–(d))

As indicated above, section 337 of STURAA provided for a gradual increase in the domestic content for rolling stock from the previous 50 percent level to 55 percent for contracts entered into after October 1, 1989, and to 60 percent for contracts entered into after October 1, 1991, and after April 1, 1992, for grandfathered companies. 49 CFR 661.11 (b) and (c) implemented these statutory provisions. Since the 60 percent domestic content requirement is now in effect for all contracts executed after April 1, 1992, FTA intends to delete subsections 661.11 (b) and (c) and to amend subsection 661.11(a) to reflect this change. Subsections (k) and (n) will also be revised to indicate that the 60 percent domestic content requirements also apply to components of rolling stock. The remaining subsections of 49 CFR 661.11 will be re-numbered accordingly.

E. Request for Comments

FTA requests comments on any of the amendments proposed today. In addition to those matters, FTA requests recommendations or proposals for other amendments which could further clarify the regulation or facilitate its implementation.

III. Regulatory Impacts

A. Executive Order 12866

FTA has determined that this action is not significant under Executive Order 12866 or the regulatory policies and procedures of Department of Transportation regulatory policies and procedures. Since this final rule makes only technical amendments to current regulatory language, it is anticipated that the economic impact of this rulemaking will be minimal; therefore, a full regulatory evaluation is not required.

B. Regulatory Flexibility Act

In accordance with 5 U.S.C. 603(a), as added by the Regulatory Flexibility Act, Pub. L. 96–354, FTA certifies that this rule will not have a significant impact on a substantial number of small entities within the meaning of the Act.

C. Paperwork Reduction Act

This action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501, *et seq.*

D. Executive Order 12612

This action has been reviewed under Executive Order 12612 on Federalism and FTA has determined that it does not have implications for principles of Federalism that warrant the preparation of a Federalism Assessment. If promulgated, this rule will not limit the policy making or administrative discretion of the States, nor will it impose additional costs or burdens on the States, nor will it affect the States' abilities to discharge the traditional State governmental functions or otherwise affect any aspect of State sovereignty.

IV. List of Subjects in 49 CFR Part 661

Buy America, Domestic preference requirement, Government contracts, Grant programs-Transportation, Mass transportation.

V. Proposed Amendments to 49 CFR Part 661

Accordingly, for the reasons described in the preamble, it is proposed that Part 661 of Title 49 of the Code of Federal Regulations be amended as follows:

PART 661—[AMENDED]

1. By revising the authority citation to read as follows:

Authority: 49 U.S.C. 5323(j) (formerly Sec. 165, Pub. L. 97–424; as amended by sec. 337, Pub. L. 100–17 and sec. 1048, Pub. L. 102–240); 49 CFR 1.51.

2. By adding in alphabetical order a definition of ''Component'' to § 661.3 to read as follows:

§ 661.3 Definitions.

* * * * *

Component means any article, material, or supply, whether manufactured or unmanufactured, that is directly incorporated into the end product at the final assembly location.

* * * * *

3. By revising § 661.5 to read as follows:

§ 661.5 General requirements.

(a) Except as provided in §§ 661.7 and 661.11 of this part, no funds may be obligated by FTA for a grantee project unless all iron, steel, and manufactured products used in the project are produced in the United States.

(b) All steel and iron manufacturing processes must take place in the United States, except metallurgical processes involving refinement of steel additives.

(c) The steel and iron requirements apply to all items made primarily of steel and iron including, but not limited to, structural steel or iron, steel or iron beams and columns, running rail and contact rail. These requirements do not apply to steel or iron used as components or subcomponents of other manufactured products or rolling stock.

(d) For a manufactured product to be considered produced in the United States:

(1) All of the manufacturing processes for the product must take place in the United States; and

(2) All of the components of the product must be of U.S. origin. A component is considered of U.S. origin if it is manufactured in the United States, regardless of the origin of its subcomponents.

4. By adding new 661.7(h) to read as follows:

§ 661.7 Waivers.

* * * * *

(h) The provisions of this section shall not apply to products produced in a foreign country if the Secretary, in consultation with the United States Trade Representative, determines that:

(1) That foreign country is party to an agreement with the United States pursuant to which the head of an agency of the United States has waived the requirements of this section; and

(2) That foreign country has violated the terms of the agreement by discriminating against products covered by this section that are produced in the United States and are covered by the agreement.

§ 661.10 [Removed]

5. By deleting § 661.10.

6. By revising § 661.11 to read as follows:

§ 661.11 Rolling stock procurements.

(a) The provisions of § 661.5 do not apply to the procurement of buses and other rolling stock (including train control, communication, and traction power equipment), if the cost of components produced in the United States is more than 60 percent of the cost of all components and final assembly takes place in the United States.

(b) The domestic content requirements in paragraph (a) of this section also apply to the domestic content requirements for components set forth in paragraphs (i),(j), and (l) of this section.

(c) A component is any article, material, or supply, whether manufactured or unmanufactured, that is directly incorporated into an end product at the final assembly location.

(d) A component may be manufactured at the final assembly location if the manufacturing process to produce the component is a separate and distinct activity from the final assembly of the end product.

(e) A component is considered to be manufactured if there are sufficient activities taking place to advance the value or improve the condition of the subcomponents of that component; that is, if the subcomponents have been substantially transformed or merged into a new and functionally different article.

(f) Except as provided in paragraph (k) of this section, a subcomponent is any article, material, or supply, whether manufactured or unmanufactured, that is one step removed from a component (as defined in paragraph (c) of this section) in the manufacturing process and that is incorporated directly into a component.

(g) For a component to be of domestic origin, more than 60 percent of the subcomponents of that component, by cost, must be of domestic origin and the manufacture of the component must take place in the United States. If, under the terms of this part, a component is determined to be of domestic origin, its entire cost may be used in calculating the cost of domestic content of an end product.

(h) A subcomponent is of domestic origin if it is manufactured in the United States.

(i) If a subcomponent manufactured in the United States is exported for inclusion in a component that is manufactured outside the United States and it receives tariff exemptions under the procedures set forth in 19 CFR 10.11 through 10.24, the subcomponent retains its domestic identity and can be included in the calculation of the domestic content of an end product even if such a subcomponent represents less than 60 percent of the cost of a particular component.

(j) If a subcomponent manufactured in the United States is exported for inclusion in a component manufactured outside the United States and it does not receive tariff exemption under the procedures set forth in 19 CFR 10.11 through 10.24, the subcomponent loses its domestic identity and cannot be included in the calculation of the domestic content of an end product.

(k) Raw materials produced in the United States and then exported for incorporation into a component are not considered to be a subcomponent for the purpose of calculating domestic content. The value of such raw materials is to be included in the cost of the foreign component.

(l) If a component is manufactured in the United States, but contains less than 60 percent domestic subcomponents, by cost, the cost of the domestic subcomponents and the cost of manufacturing the component may be included in the calculation of the domestic content of the end product.

(m) For purposes of this section, except as provided in paragraph (o) of this section:

(1) The cost of a component or a subcomponent is the price that a bidder or offeror must pay to a subcontractor or supplier for that component or subcomponent. Transportation costs to the final assembly location must be included in calculating the cost of a component. Applicable duties must be included in determining the cost of foreign components and subcomponents.

(2) If a component or subcomponent is manufactured by the bidder or offeror, the cost of the component is the cost of labor and materials incorporated into the component or subcomponent, an allowance for profit, and the administrative and overhead costs attributable to that component or subcomponent under normal accounting principles.

(n) The cost of a component of foreign origin is set at the time the bidder or offeror executes the appropriate Buy America certificate.

(o) The cost of a subcomponent that retains its domestic identity consistent with paragraph (j) of this section shall be the cost of the subcomponent when last purchased, f.o.b. United States port of exportation or point of border crossing as set out in the invoice and entry papers or, if no purchase was made, the value of the subcomponent at the time of its shipment for exportation, f.o.b. United States port of exportation or point of border crossing, as set out in the invoice and entry papers.

(p) In accordance with 49 U.S.C. 5323(j), labor costs involved in final assembly shall not be included in calculating component costs.

(q) The actual cost, not the bid price, of a component is to be considered in calculating domestic content.

(r) Final assembly is the creation of the end product from individual elements brought together for that purpose through application of manufacturing processes. If a system is being procured as the end product by the grantee, the installation of the system qualifies as final assembly.

(s) An end product means any item subject to 49 U.S.C. 5323(j), that is to be acquired by a grantee, as specified in the overall project contract.

(t) Train control equipment includes, but is not limited to, the following equipment:

(1) Mimic board in central control.
(2) Dispatcher's console.
(3) Local control panels.
(4) Station (way side) block control relay cabinets.
(5) Terminal dispatcher machines.
(6) Cable/cable trays.
(7) Switch machines.
(8) Way side signals.
(9) Impedance bonds.
(10) Relay rack bungalows.
(11) Central computer control.
(12) Brake equipment.
(13) Brake systems.

(u) Communication equipment includes, but is not limited to, the following equipment:

(1) Radios.
(2) Space station transmitter and receivers.
(3) Vehicular and hand-held radios.
(4) PABX telephone switching equipment.
(5) PABX telephone instruments.
(6) Public address amplifiers.
(7) Public address speakers.
(8) Cable transmission system cable.
(9) Cable transmission system multiplex equipment.
(10) Communication console at central control.
(11) Uninterruptible power supply inverters/rectifiers.
(12) Uninterruptible power supply batteries.
(13) Data transmission system central processors.
(14) Data transmission system remote terminals.
(15) Line printers for data transmission system.

(16) Communication system monitor test panel.
(17) Security console at central control.
(v) Traction power equipment includes, but is not limited to the following:
(1) Primary AC switch gear.
(2) Primary AC transformers (rectifier).
(3) DC switch gear.
(4) Traction power console and CRT display system at central control.
(5) Bus ducts with buses (AC and DC).
(6) Batteries.
(7) Traction power rectifier assemblies.
(8) Distribution panels (AC and DC).
(9) Facility step-down transformers.
(10) Motor control centers (facility use only).
(11) Battery chargers.
(12) Supervisory control panel.
(13) Annunciator panels.
(14) Low voltage facility distribution switch board.
1(5) DC connect switches.
(16) Negative bus boxes.
(17) Power rail insulators.
(18) Power cables (AC and DC).
(19) Cable trays.
(20) Instrumentation for traction power equipment.
(21) Connectors, tensioners, and insulators for overhead power wire systems.
(22) Negative drainage boards.
(23) Inverters.
(24) Traction motors.
(25) Propulsion gear boxes.
(26) Third rail pick-up equipment.
(27) Pantographs.
(w) The power or third rail is not considered traction power equipment and is thus subject to the requirements of 49 U.S.C. 5323(j) and the requirements of § 661.5.
(x) A bidder on a contract for an item covered by 49 U.S.C. 5323(j) who will comply with section 165(b)(3) and regulations in this section is not required to follow the application for waiver procedures set out in § 661.9. In lieu of these procedures, the bidder must submit the appropriate certificate required by § 661.12.

7. By adding § 661.18 to read as follows:

§ 661.18 Intentional violations.

Any person shall be ineligible to receive any contract or subcontract made with funds authorized under the Intermodal Surface Transportation Efficiency Act of 1991 pursuant to the debarment and suspension proceedings under part 29 of this title if it has been determined by a court or Federal agency that any person intentionally—

(a) Affixed a label bearing a ''Made in America'' inscription, or an inscription with the same meaning, to a product not made in the United States, but sold in or shipped to the United States and used in projects to which this section applies, or

(b) Otherwise represented that any such product was produced in the United States.

Issued on: September 5, 1995.

Gordon J. Linton,

Administrator.

[FR Doc. 95–22499 Filed 9–11–95; 8:45 am]

BILLING CODE 4910–57–M

Federal Register

Tuesday
September 12, 1995

Part III

The President

Proclamation 6819—America Goes Back to School

Proclamation 6820—Classical Music Month

Federal Register
Vol. 60, No. 176
Tuesday, September 12, 1995

Presidential Documents

Title 3—

The President

Proclamation 6819 of September 8, 1995

America Goes Back to School, 1995

By the President of the United States of America

A Proclamation

The beginning of a new school year is a time of renewal and anticipation for families, educators, and communities across America. Teachers ready their classrooms and curricula; law enforcement officers redouble their efforts to keep neighborhoods safe and drug-free; businesses work with schools to create stronger partnerships; and parents everywhere encourage their children to look forward to the challenges ahead.

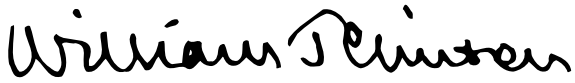
This time of year also provides us with an occasion to renew our faith in the promise of education—the spark that lights our ambitions and gives us the tools to grow and succeed. To ensure America's continued leadership in the coming century, we must empower every citizen with the knowledge and training necessary to meet new and varied challenges. The generation of young people in school today deserves our Nation's pledge to help them get on the right course and make the most of their lives.

Improving education means strengthening families and schools. Families are responsible for raising children, and parents are their first and most important teachers. Schools are responsible for providing children with quality education and meaningful guidance. But schools and families cannot do it alone. Instead, religious organizations, community leaders, older Americans, volunteer groups, service agencies, industries, and every caring individual must work together, realizing that the complexity of our diverse and changing society demands innovative and effective solutions for helping our children embrace the values of good citizenship.

In March 1994 I signed into law the Goals 2000: Educate America Act, which supports grassroots efforts to help schoolchildren meet high standards for achievement and discipline. School-to-Work programs are uniting businesses, community colleges, and high schools to provide work-study experience and technical expertise, and a new system of direct loans is making a college education more affordable and accessible. This year the Department of Education is deepening its commitment to parent and community involvement by joining the Family Involvement Partnership for Learning to sponsor America Goes Back to School: A Place for Families and the Community. This initiative encourages all Americans to take part in the drive for excellence in education. I am proud that the Department has acted boldly to foster support for America's families and students.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim September 11 through September 18, 1995, as a time when ''America Goes Back to School.'' I call upon parents, community and State leaders, businesses, civic and religious organizations, and all our citizens to observe this period with appropriate ceremonies and activities expressing support for schools and colleges, children and families, and to continue their active involvement on behalf of America's students throughout the year.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of September, in the year of our Lord nineteen hundred and ninety-five, and of the Independence of the United States of America the two hundred and twentieth.



[FR Doc. 95–22838
Filed 9–11–95; 10:46 am]
Billing code 3195–01–P

Proclamation 6820 of September 9, 1995

Classical Music Month, 1995

By the President of the United States of America

A Proclamation

Classical music is one of the glories of the world, a living tradition that enriches the lives of millions of Americans. In the concert halls of our bustling cities, in the community centers of our small towns, and in countless homes everywhere, classical music brings joy and inspiration to our citizens. Its phrases and themes have long spoken to our national love of beauty and our common passion for spirited expression.

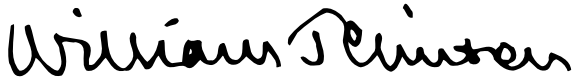
More than one hundred years ago, the Bohemian composer Antonín Dvořák came to America—traveling from New York to Iowa to admire the awesome potential of this great land. The New World Symphony, Dvořák's tribute to our country, touches us still with its references to the music of Native American and African American people.

Indeed, classical music is a universal language. Whether the musicians speak English, Spanish, Russian, Japanese, or Hebrew, all recognize the same notes. Whatever cultural tradition is evoked by its cords and rhythms, classical music stirs emotions we all share. Among the many music lovers gathered to enjoy a performance, each individual listener feels the powerful dynamism of music's resonant voice.

This month, let us celebrate the artistic excellence that brings classical music to life. We honor the many remarkable composers, conductors, and performers of the past whose works continue to delight us, and we applaud today's musicians, whose talents remind us of the continuity and grandeur of the human experience. Each has contributed to the vast body of music that entertains and inspires people around the globe.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim September 1995, as ''Classical Music Month.'' I call upon government officials, educators, community organizations, and all the people of the United States to observe this month with appropriate programs, ceremonies, and activities paying tribute to the extraordinary diversity and artistry of classical music.

IN WITNESS WHEREOF, I have hereunto set my hand this ninth day of September, in the year of our Lord nineteen hundred and ninety-five, and of the Independence of the United States of America the two hundred and twentieth.



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